

**YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE  
OF NEBRASKA DEVELOPMENT TRUST FUND  
ACT AND TO AUTHORIZE THE CONSTRUCTION  
OF A RECONCILIATION PLACE IN FORT PIERRE,  
SD**

---

**HEARING**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS  
UNITED STATES SENATE**

**ONE HUNDRED SIXTH CONGRESS**

**SECOND SESSION**

**ON**

**S. 1148**

**TO PROVIDE FOR THE YANKTON SIOUX TRIBE AND THE SANTEE SIOUX  
TRIBE OF NEBRASKA CERTAIN BENEFITS OF THE MISSOURI RIVER  
BASIN PICK-SLOAN PROJECT**

**S. 1658**

**TO AUTHORIZE THE CONSTRUCTION OF A RECONCILIATION PLACE IN  
FORT PIERRE, SD**

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**MAY 17, 2000  
WASHINGTON, DC**



U.S. GOVERNMENT PRINTING OFFICE

64-672 CC

WASHINGTON : 2000

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Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

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**YANKTON SIOUX TRIBE AND SANTEE SIOUX  
TRIBE OF NEBRASKA DEVELOPMENT TRUST  
FUND ACT AND TO AUTHORIZE THE CON-  
STRUCTION OF A RECONCILIATION PLACE  
IN FORT PIERRE, SD**

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**WEDNESDAY, MAY 17, 2000**

**U.S. SENATE,  
COMMITTEE ON INDIAN AFFAIRS,  
*Washington, DC.***

The committee met, pursuant to notice, at 2:22 p.m. in room 485, Senate Russell Building, Hon. Daniel K. Inouye (Vice Chairman of the committee) presiding.

Present: Senator Inouye.

**STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM  
HAWAII, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS**

Senator INOUE. This is a special gathering to consider two measures, first S. 1148, a bill to provide the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska with certain benefits of the Missouri River Pick-Sloan project and S. 1658 to authorize the construction of a reconciliation place at Fort Pierre, SD.

[Text of S. 1148 and S. 1658 follow:]

106TH CONGRESS  
1ST SESSION

# S. 1148

To provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska certain benefits of the Missouri River Basin Pick-Sloan project, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

MAY 27, 1999

Mr. DASCHLE (for himself and Mr. KERREY) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska certain benefits of the Missouri River Basin Pick-Sloan project, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Yankton Sioux Tribe  
5 and Santee Sioux Tribe of Nebraska Development Trust  
6 Fund Act".

7 **SEC. 2. FINDINGS AND PURPOSES.**

8 (a) FINDINGS.—Congress finds that—

1           (1) by enacting the Act of December 22, 1944,  
2       commonly known as the "Flood Control Act of  
3       1944" (58 Stat. 887, chapter 665; 33 U.S.C. 701–  
4       1 et seq.) Congress approved the Pick-Sloan Mis-  
5       souri River Basin program (referred to in this sec-  
6       tion as the "Pick-Sloan program")—

7           (A) to promote the general economic devel-  
8       opment of the United States;

9           (B) to provide for irrigation above Sioux  
10      City, Iowa;

11          (C) to protect urban and rural areas from  
12      devastating floods of the Missouri River; and

13          (D) for other purposes;

14          (2) the waters impounded for the Fort Randall  
15      and Gavins Point projects of the Pick-Sloan pro-  
16      gram have inundated the fertile, wooded bottom  
17      lands along the Missouri River that constituted the  
18      most productive agricultural and pastoral lands of,  
19      and the homeland of, the members of the Yankton  
20      Sioux Tribe and the Santee Sioux Tribe;

21          (3) the Fort Randall project (including the Fort  
22      Randall Dam and Reservoir)—

23           (A) overlies the western boundary of the  
24      Yankton Sioux Tribe Indian Reservation; and

1 (B) has caused the erosion of more than  
2 400 acres of prime land on the Yankton Sioux  
3 Reservation adjoining the east bank of the Mis-  
4 souri River;

5 (4) the Gavins Point project (including the Gav-  
6 ins Point Dam and Reservoir) overlies the eastern  
7 boundary of the Santee Sioux Tribe;

8 (5) although the Fort Randall and Gavins Point  
9 projects are major components of the Pick-Sloan  
10 program, and contribute to the economy of the  
11 United States by generating a substantial amount of  
12 hydropower and impounding a substantial quantity  
13 of water, the reservations of the Yankton Sioux  
14 Tribe and the Santee Sioux Tribe remain undevel-  
15 oped;

16 (6) the United States Army Corps of Engineers  
17 took the Indian lands used for the Fort Randall and  
18 Gavins Point projects by condemnation proceedings;

19 (7) the Federal Government did not give  
20 Yankton Sioux Tribe and the Santee Sioux Tribe an  
21 opportunity to receive compensation for direct dam-  
22 ages from the Pick-Sloan program, even though the  
23 Federal Government gave 5 Indian reservations up-  
24 stream from the reservations of those Indian tribes  
25 such an opportunity;



1           (8) the Yankton Sioux Tribe and the Santee  
2       Sioux Tribe did not receive just compensation for  
3       the taking of productive agricultural Indian lands  
4       through the condemnation referred to in paragraph  
5       (6);

6           (9) the settlement agreement that the United  
7       States entered into with the Yankton Sioux Tribe  
8       and the Santee Sioux Tribe to provide compensation  
9       for the taking by condemnation referred to in para-  
10      graph (6) did not take into account the increase in  
11      property values over the years between the date of  
12      taking and the date of settlement; and

13          (10) in addition to the financial compensation  
14      provided under the settlement agreements referred  
15      to in paragraph (9)—

16           (A) the Yankton Sioux Tribe should re-  
17      ceive an aggregate amount equal to  
18      \$34,323,743 for—

19           (i) the loss value of 2,851.40 acres of  
20      Indian land taken for the Fort Randall  
21      Dam and Reservoir of the Pick-Sloan pro-  
22      gram; and

23           (ii) the use value of 408.40 acres of  
24      Indian land on the reservation of that In-  
25      dian tribe that was lost as a result of

1 stream bank erosion that has occurred  
2 since 1953; and

3 (B) the Santee Sioux Tribe should receive  
4 an aggregate amount equal to \$8,132,838 for  
5 the loss value of—

6 (i) 593.10 acres of Indian land lo-  
7 cated near the Santee village; and

8 (ii) 414.12 acres on Niobrara Island  
9 of the Santee Sioux Tribe Indian Reserva-  
10 tion used for the Gavins Point Dam and  
11 Reservoir.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) **INDIAN TRIBE.**—The term “Indian tribe”  
15 has the meaning given that term in section 4(e) of  
16 the Indian Self-Determination and Education Assist-  
17 ance Act (25 U.S.C. 450b(e)).

18 (2) **PROGRAM.**—The term “Program” means  
19 the power program of the Pick-Sloan Missouri River  
20 Basin program, administered by the Western Area  
21 Power Administration.

22 (3) **SANTEE SIOUX TRIBE.**—The term “Santee  
23 Sioux Tribe” means the Santee Sioux Tribe of Ne-  
24 braska.

1 **SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST**  
2 **FUND.**

3 (a) **ESTABLISHMENT.**—There is established in the  
4 Treasury of the United States a fund to be known as the  
5 “Yankton Sioux Tribe Development Trust Fund” (re-  
6 ferred to in this section as the “Fund”). The Fund shall  
7 consist of any amounts deposited in the Fund under this  
8 Act.

9 (b) **FUNDING.**—Out of any money in the Treasury  
10 not otherwise appropriated, the Secretary of the Treasury  
11 shall deposit \$34,323,743 into the Fund not later than  
12 60 days after the date of enactment of this Act.

13 (c) **INVESTMENTS.**—The Secretary of the Treasury  
14 shall invest the amounts deposited under subsection (b)  
15 in interest-bearing obligations of the United States or in  
16 obligations guaranteed as to both principal and interest  
17 by the United States. The Secretary of the Treasury shall  
18 deposit interest resulting from such investments into the  
19 Fund.

20 (d) **PAYMENT OF INTEREST TO YANKTON SIOUX**  
21 **TRIBE.**—

22 (1) **WITHDRAWAL OF INTEREST.**—Beginning at  
23 the end of the first fiscal year in which interest is  
24 deposited into the Fund, the Secretary of the Treas-  
25 ury shall withdraw the aggregate amount of interest  
26 deposited into the Fund for that fiscal year and

1 transfer that amount to the Secretary of the Interior  
2 for use in accordance with paragraph (2). Each  
3 amount so transferred shall be available without fis-  
4 cal year limitation.

5 (2) PAYMENTS TO YANKTON SIOUX TRIBE.—

6 (A) IN GENERAL.—The Secretary of the  
7 Interior shall use the amounts transferred  
8 under paragraph (1) only for the purpose of  
9 making payments to the Yankton Sioux Tribe,  
10 as such payments are requested by that Indian  
11 tribe pursuant to tribal resolution.

12 (B) LIMITATION.—Payments may be made  
13 by the Secretary of the Interior under subpara-  
14 graph (A) only after the Yankton Sioux Tribe  
15 has adopted a tribal plan under section 6.

16 (C) USE OF PAYMENTS BY YANKTON  
17 SIOUX TRIBE.—The Yankton Sioux Tribe shall  
18 use the payments made under subparagraph  
19 (A) only for carrying out projects and programs  
20 under the tribal plan prepared under section 6.

21 (D) PLEDGE OF FUTURE PAYMENTS.—

22 (i) IN GENERAL.—Subject to clause  
23 (ii), the Yankton Sioux Tribe may enter  
24 into an agreement under which that Indian  
25 tribe pledges future payments under this

1 paragraph as security for a loan or other  
2 financial transaction.

3 (ii) LIMITATIONS.—The Yankton  
4 Sioux Tribe—

5 (I) may enter into an agreement  
6 under clause (i) only in connection  
7 with the purchase of land or other  
8 capital assets; and

9 (II) may not pledge, for any year  
10 under an agreement referred to in  
11 clause (i), an amount greater than 40  
12 percent of any payment under this  
13 paragraph for that year.

14 (e) TRANSFERS AND WITHDRAWALS.—Except as  
15 provided in subsections (c) and (d)(1), the Secretary of  
16 the Treasury may not transfer or withdraw any amount  
17 deposited under subsection (b).

18 **SEC. 5. SANTEE SIOUX TRIBE OF NEBRASKA DEVELOP-**  
19 **MENT TRUST FUND.**

20 (a) ESTABLISHMENT.—There is established in the  
21 Treasury of the United States a fund to be known as the  
22 “Santee Sioux Tribe of Nebraska Development Trust  
23 Fund” (referred to in this section as the “Fund”). The  
24 Fund shall consist of any amounts deposited in the Fund  
25 under this Act.

1 (b) FUNDING.—Out of any money in the Treasury  
2 not otherwise appropriated, the Secretary of the Treasury  
3 shall deposit \$8,132,838 into the Fund not later than 60  
4 days after the date of enactment of this Act.

5 (c) INVESTMENTS.—The Secretary of the Treasury  
6 shall invest the amounts deposited under subsection (b)  
7 in interest-bearing obligations of the United States or in  
8 obligations guaranteed as to both principal and interest  
9 by the United States. The Secretary of the Treasury shall  
10 deposit interest resulting from such investments into the  
11 Fund.

12 (d) PAYMENT OF INTEREST TO SANTEE SIOUX  
13 TRIBE.—

14 (1) WITHDRAWAL OF INTEREST.—Beginning at  
15 the end of the first fiscal year in which interest is  
16 deposited into the Fund, the Secretary of the Treas-  
17 ury shall withdraw the aggregate amount of interest  
18 deposited into the Fund for that fiscal year and  
19 transfer that amount to the Secretary of the Interior  
20 for use in accordance with paragraph (2). Each  
21 amount so transferred shall be available without fis-  
22 cal year limitation.

23 (2) PAYMENTS TO SANTEE SIOUX TRIBE.—

24 (A) IN GENERAL.—The Secretary of the  
25 Interior shall use the amounts transferred

1 under paragraph (1) only for the purpose of  
2 making payments to the Santee Sioux Tribe, as  
3 such payments are requested by that Indian  
4 tribe pursuant to tribal resolution.

5 (B) LIMITATION.—Payments may be made  
6 by the Secretary of the Interior under subpara-  
7 graph (A) only after the Santee Sioux Tribe has  
8 adopted a tribal plan under section 6.

9 (C) USE OF PAYMENTS BY SANTEE SIOUX  
10 TRIBE.—The Santee Sioux Tribe shall use the  
11 payments made under subparagraph (A) only  
12 for carrying out projects and programs under  
13 the tribal plan prepared under section 6.

14 (D) PLEDGE OF FUTURE PAYMENTS.—

15 (i) IN GENERAL.—Subject to clause  
16 (ii), the Santee Sioux Tribe may enter into  
17 an agreement under which that Indian  
18 tribe pledges future payments under this  
19 paragraph as security for a loan or other  
20 financial transaction.

21 (ii) LIMITATIONS.—The Santee Sioux  
22 Tribe—

23 (I) may enter into an agreement  
24 under clause (i) only in connection

1 with the purchase of land or other  
2 capital assets; and

3 (II) may not pledge, for any year  
4 under an agreement referred to in  
5 clause (i), an amount greater than 40  
6 percent of any payment under this  
7 paragraph for that year.

8 (e) TRANSFERS AND WITHDRAWALS.—Except as  
9 provided in subsections (c) and (d)(1), the Secretary of  
10 the Treasury may not transfer or withdraw any amount  
11 deposited under subsection (b).

12 **SEC. 6. TRIBAL PLANS.**

13 (a) IN GENERAL.—Not later than 24 months after  
14 the date of enactment of this Act, the tribal council of  
15 each of the Yankton Sioux and Santee Sioux Tribes shall  
16 prepare a plan for the use of the payments to the tribe  
17 under section 4(d) or 5(d) (referred to in this subsection  
18 as a “tribal plan”).

19 (b) CONTENTS OF TRIBAL PLAN.—Each tribal plan  
20 shall provide for the manner in which the tribe covered  
21 under the tribal plan shall expend payments to the tribe  
22 under subsection (d) to promote—

- 23 (1) economic development;  
24 (2) infrastructure development;



1           (3) the educational, health, recreational, and so-  
2       cial welfare objectives of the tribe and its members;  
3       or

4           (4) any combination of the activities described  
5       in paragraphs (1), (2), and (3).

6       (c) TRIBAL PLAN REVIEW AND REVISION.—

7           (1) IN GENERAL.—Each tribal council referred  
8       to in subsection (a) shall make available for review  
9       and comment by the members of the tribe a copy of  
10      the tribal plan for the Indian tribe before the tribal  
11      plan becomes final, in accordance with procedures  
12      established by the tribal council.

13          (2) UPDATING OF TRIBAL PLAN.—Each tribal  
14      council referred to in subsection (a) may, on an an-  
15      nual basis, revise the tribal plan prepared by that  
16      tribal council to update the tribal plan. In revising  
17      the tribal plan under this paragraph, the tribal  
18      council shall provide the members of the tribe oppor-  
19      tunity to review and comment on any proposed revi-  
20      sion to the tribal plan.

21   **SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**  
22                           **AND SERVICES.**

23          (a) IN GENERAL.—No payment made to the Yankton  
24      Sioux Tribe or Santee Sioux Tribe pursuant to this Act

1 shall result in the reduction or denial of any service or  
2 program to which, pursuant to Federal law—

3 (1) the Yankton Sioux Tribe or Santee Sioux  
4 Tribe is otherwise entitled because of the status of  
5 the tribe as a federally recognized Indian tribe; or

6 (2) any individual who is a member of a tribe  
7 under paragraph (1) is entitled because of the status  
8 of the individual as a member of the tribe.

9 (b) EXEMPTIONS FROM TAXATION.—No payment  
10 made pursuant to this Act shall be subject to any Federal  
11 or State income tax.

12 (c) POWER RATES.—No payment made pursuant to  
13 this Act shall affect Pick-Sloan Missouri River Basin  
14 power rates.

15 **SEC. 8. STATUTORY CONSTRUCTION.**

16 Nothing in this Act may be construed as diminishing  
17 or affecting any water right of an Indian tribe, except as  
18 specifically provided in another provision of this Act, any  
19 treaty right that is in effect on the date of enactment of  
20 this Act, any authority of the Secretary of the Interior  
21 or the head of any other Federal agency under a law in  
22 effect on the date of enactment of this Act.

23 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated such sums  
25 as are necessary to carry out this Act, including such sums

- 1 as may be necessary for the administration of the Yankton
- 2 Sioux Tribe Development Trust Fund under section 4 and
- 3 the Santee Sioux Tribe of Nebraska Development Trust
- 4 Fund under section 5.

○

106TH CONGRESS  
1ST SESSION

# S. 1658

To authorize the construction of a Reconciliation Place in Fort Pierre, South Dakota, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 1999

Mr. DASCHLE introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

---

## A BILL

To authorize the construction of a Reconciliation Place in Fort Pierre, South Dakota, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 SECTION 1. FINDINGS.

4 Congress finds that—

5 (1) there is a continuing need for reconciliation  
6 between Indians and non-Indians;

7 (2) the need may be met partially through the  
8 promotion of the understanding of the history and  
9 culture of Sioux Indian tribes;

1           (3) the establishment of a Sioux Nation Tribal  
2       Supreme Court will promote economic development  
3       on reservations of the Sioux Nation and provide in-  
4       vestors that contribute to that development a greater  
5       degree of certainty and confidence by—

6           (A) reconciling conflicting tribal laws; and

7           (B) strengthening tribal court systems;

8       (4) the reservations of the Sioux Nation—

9           (A) contain the poorest counties in the  
10      United States; and

11          (B) lack adequate tools to promote eco-  
12      nomic development and the creation of jobs;  
13      and

14       (5) the establishment of a Native American  
15      Economic Development Council will assist in pro-  
16      moting economic growth and reducing poverty on  
17      reservations of the Sioux Nation by—

18          (A) coordinating economic development ef-  
19      forts;

20          (B) centralizing expertise concerning Fed-  
21      eral assistance; and

22          (C) facilitating the raising of funds from  
23      private donations to meet matching require-  
24      ments under certain Federal assistance pro-  
25      grams.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **INDIAN TRIBE.**—The term “Indian tribe”  
4 has the meaning given that term in section 4(e) of  
5 the Indian Self-Determination and Education Assist-  
6 ance Act (25 U.S.C. 450b(e)).

7 (2) **SECRETARY.**—The term “Secretary” means  
8 the Secretary of the Interior.

9 (3) **SIOUX NATION.**—The term “Sioux Nation”  
10 means the Indian tribes comprising the Sioux Na-  
11 tion.

12 **TITLE I—RECONCILIATION**  
13 **CENTER**

14 **SEC. 101. RECONCILIATION CENTER.**

15 (a) **ESTABLISHMENT.**—The Secretary of Housing  
16 and Urban Development, in cooperation with the Sec-  
17 retary, shall establish, in accordance with this section, a  
18 reconciliation center, to be known as “Reconciliation  
19 Place”.

20 (b) **PURPOSES.**—The purposes of Reconciliation  
21 Place shall be as follows:

22 (1) To enhance the knowledge and understand-  
23 ing of the history of Native Americans by—

24 (A) displaying and interpreting the history,  
25 art, and culture of Indian tribes for Indians  
26 and non-Indians; and

1 (B) providing an accessible repository  
2 for—

- 3 (i) the history of Indian tribes; and  
4 (ii) the family history of members of  
5 Indian tribes.

6 (2) To provide for the interpretation of the en-  
7 counters between Lewis and Clark and the Sioux  
8 Nation.

9 (3) To house the Sioux Nation Tribal Supreme  
10 Court.

11 (4) To house the Native American Economic  
12 Development Council.

13 (c) GRANT.—

14 (1) IN GENERAL.—The Secretary of Housing  
15 and Urban Development shall offer to award a grant  
16 to the Wakpa Sica Historical Society of Fort Pierre,  
17 South Dakota, for the construction of Reconciliation  
18 Place.

19 (2) GRANT AGREEMENT.—

20 (A) IN GENERAL.—As a condition to re-  
21 ceiving the grant under this subsection, the ap-  
22 propriate official of the Wakpa Sica Historical  
23 Society shall enter into a grant agreement with  
24 the Secretary of Housing and Urban Develop-  
25 ment.

1 (B) CONSULTATION.—Before entering into  
2 a grant agreement under this paragraph, the  
3 Secretary of Housing and Urban Development  
4 shall consult with the Secretary concerning the  
5 contents of the agreement.

6 (C) DUTIES OF THE WAKPA SICA HISTORI-  
7 CAL SOCIETY.—The grant agreement under this  
8 paragraph shall specify the duties of the Wakpa  
9 Sica Historical Society under this section and  
10 arrangements for the maintenance of Reconcili-  
11 ation Place.

12 (3) AUTHORIZATION OF APPROPRIATIONS.—  
13 There are authorized to be appropriated to the De-  
14 partment of Housing and Urban Development  
15 \$17,258,441, to be used for the grant under this  
16 section.

17 **SEC. 102. SIOUX NATION TRIBAL COURT.**

18 (a) IN GENERAL.—To ensure the development and  
19 operation of the Sioux Nation Tribal Supreme Court, the  
20 Attorney General of the United States shall provide such  
21 technical and financial assistance to the Sioux Nation as  
22 is necessary.

23 (b) AUTHORIZATION OF APPROPRIATIONS.—To carry  
24 out this section, there are authorized to be appropriated  
25 to the Department of Justice such sums as are necessary.



1 **TITLE II—NATIVE AMERICAN**  
2 **ECONOMIC DEVELOPMENT**  
3 **COUNCIL**

4 **SEC. 201. ESTABLISHMENT OF NATIVE AMERICAN ECO-**  
5 **NOMIC DEVELOPMENT COUNCIL.**

6 (a) **ESTABLISHMENT.**—There is established the Na-  
7 tive American Economic Development Council (in this title  
8 referred to as the “Council”). The Council shall be a char-  
9 itable and nonprofit corporation and shall not be consid-  
10 ered to be an agency or establishment of the United  
11 States.

12 (b) **PURPOSES.**—The purposes of the Council are—

13 (1) to encourage, accept, and administer private  
14 gifts of property;

15 (2) to use those gifts as a source of matching  
16 funds necessary to receive Federal assistance;

17 (3) to provide members of Indian tribes with  
18 the skills and resources necessary for establishing  
19 successful businesses;

20 (4) to provide grants and loans to members of  
21 Indian tribes to establish or operate small busi-  
22 nesses;

23 (5) to provide scholarships for members of In-  
24 dian tribes who are students pursuing an education  
25 in business or a business-related subject; and

1 (6) to provide technical assistance to Indian  
2 tribes and members thereof in obtaining Federal as-  
3 sistance.

4 **SEC. 202. BOARD OF DIRECTORS OF THE COUNCIL.**

5 (a) **ESTABLISHMENT AND MEMBERSHIP.**—

6 (1) **IN GENERAL.**—The Council shall have a  
7 governing Board of Directors (in this title referred  
8 to as the “Board”).

9 (2) **MEMBERSHIP.**—The Board shall consist of  
10 11 directors, who shall be appointed by the Sec-  
11 retary as follows:

12 (A)(i) 9 members appointed under this  
13 paragraph shall represent the 9 reservations of  
14 South Dakota.

15 (ii) Each member described in clause (i)  
16 shall—

17 (I) represent 1 of the reservations de-  
18 scribed in clause (i); and

19 (II) be selected from among nomina-  
20 tions submitted by the appropriate Indian  
21 tribe.

22 (B) 1 member appointed under this para-  
23 graph shall be selected from nominations sub-  
24 mitted by the Governor of the State of South  
25 Dakota.

1 (C) 1 member appointed under this para-  
2 graph shall be selected from nominations sub-  
3 mitted by the most senior member of the South  
4 Dakota Congressional delegation.

5 (3) CITIZENSHIP.—Each member of the Board  
6 shall be a citizen of the United States.

7 (b) APPOINTMENTS AND TERMS.—

8 (1) APPOINTMENT.—Not later than December  
9 31, 2000, the Secretary shall appoint the directors  
10 of the Board under subsection (a)(2).

11 (2) TERMS.—Each director shall serve for a  
12 term of 2 years.

13 (3) VACANCIES.—A vacancy on the Board shall  
14 be filled not later than 60 days after that vacancy  
15 occurs, in the manner in which the original appoint-  
16 ment was made.

17 (4) LIMITATION ON TERMS.—No individual may  
18 serve more than 3 consecutive terms as a director.

19 (c) CHAIRMAN.—The Chairman shall be elected by  
20 the Board from its members for a term of 2 years.

21 (d) QUORUM.—A majority of the members of the  
22 Board shall constitute a quorum for the transaction of  
23 business.

24 (e) MEETINGS.—The Board shall meet at the call of  
25 the Chairman at least once a year. If a director misses

1 3 consecutive regularly scheduled meetings, that individual  
2 may be removed from the Board by the Secretary and that  
3 vacancy filled in accordance with subsection (b).

4 (f) REIMBURSEMENT OF EXPENSES.—Members of  
5 the Board shall serve without pay, but may be reimbursed  
6 for the actual and necessary traveling and subsistence ex-  
7 penses incurred by them in the performance of the duties  
8 of the Council.

9 (g) GENERAL POWERS.—

10 (1) POWERS.—The Board may complete the or-  
11 ganization of the Council by—

12 (A) appointing officers and employees;

13 (B) adopting a constitution and bylaws  
14 consistent with the purposes of the Council  
15 under this Act; and

16 (C) carrying out such other actions as may  
17 be necessary to carry out the purposes of the  
18 Council under this Act.

19 (2) EFFECT OF APPOINTMENT.—Appointment  
20 to the Board shall not constitute employment by, or  
21 the holding of an office of, the United States for the  
22 purposes of any Federal law.

23 (3) LIMITATIONS.—The following limitations  
24 shall apply with respect to the appointment of offi-  
25 cers and employees of the Council:

1 (A) Officers and employees may not be ap-  
2 pointed until the Council has sufficient funds to  
3 pay them for their service.

4 (B) Officers and employees of the  
5 Council—

6 (i) shall be appointed without regard  
7 to the provisions of title 5, United States  
8 Code, governing appointments in the com-  
9 petitive service; and

10 (ii) may be paid without regard to the  
11 provisions of chapter 51 and subchapter  
12 III of chapter 53 of such title relating to  
13 classification and General Schedule pay  
14 rates.

15 (4) SECRETARY OF THE BOARD.—The first offi-  
16 cer or employee appointed by the Board shall be the  
17 Secretary of the Board. The Secretary of the Board  
18 shall—

19 (A) serve, at the direction of the Board, as  
20 its chief operating officer; and

21 (B) be knowledgeable and experienced in  
22 matters relating to economic development and  
23 Indian affairs.

1 **SEC. 203. POWERS AND OBLIGATIONS OF THE COUNCIL.**

2 (a) **CORPORATE POWERS.**—To carry out its purposes  
3 under section 201(b), the Council shall have, in addition  
4 to the powers otherwise given it under this Act, the usual  
5 powers of a corporation acting as a trustee in South Da-  
6 kota, including the power—

7 (1) to accept, receive, solicit, hold, administer,  
8 and use any gift, devise, or bequest, either absolutely  
9 or in trust, of real or personal property or any in-  
10 come therefrom or other interest therein;

11 (2) to acquire by purchase or exchange any real  
12 or personal property or interest therein;

13 (3) unless otherwise required by the instrument  
14 of transfer, to sell, donate, lease, invest, reinvest, re-  
15 tain, or otherwise dispose of any property or income  
16 therefrom;

17 (4) to borrow money and issue bonds, deben-  
18 tures, or other debt instruments;

19 (5) to sue and be sued, and complain and de-  
20 fend itself in any court of competent jurisdiction, ex-  
21 cept that the directors shall not be personally liable,  
22 except for gross negligence;

23 (6) to enter into contracts or other arrange-  
24 ments with public agencies and private organizations  
25 and persons and to make such payments as may be  
26 necessary to carry out its function; and

1 (7) to carry out any action that is necessary  
2 and proper to carry out the purposes of the Council.

3 (b) OTHER POWERS AND OBLIGATIONS.—

4 (1) IN GENERAL.—The Council—

5 (A) shall have perpetual succession;

6 (B) may conduct business throughout the  
7 several States, territories, and possessions of  
8 the United States and abroad;

9 (C) shall have its principal offices in South  
10 Dakota; and

11 (D) shall at all times maintain a des-  
12 ignated agent authorized to accept service of  
13 process for the Council.

14 (2) SERVICE OF NOTICE.—The serving of notice  
15 to, or service of process upon, the agent required  
16 under paragraph (1)(D), or mailed to the business  
17 address of such agent, shall be deemed as service  
18 upon or notice to the Council.

19 (c) SEAL.—The Council shall have an official seal se-  
20 lected by the Board, which shall be judicially noticed.

21 (d) CERTAIN INTERESTS.—If any current or future  
22 interest of a gift under subsection (a)(1) is for the benefit  
23 of the Council, the Council may accept the gift under such  
24 subsection, even if that gift is encumbered, restricted, or  
25 subject to beneficial interests of 1 or more private persons.

1 **SEC. 204. ADMINISTRATIVE SERVICES AND SUPPORT.**

2 (a) **PROVISION OF SERVICES.**—The Secretary may  
3 provide personnel, facilities, and other administrative serv-  
4 ices to the Council, including reimbursement of expenses  
5 under section 202, not to exceed then current Federal  
6 Government per diem rates, for a period ending not later  
7 than 5 years after the date of enactment of this Act.

8 (b) **REIMBURSEMENT.**—

9 (1) **IN GENERAL.**—The Council may reimburse  
10 the Secretary for any administrative service provided  
11 under subsection (a). The Secretary shall deposit  
12 any reimbursement received under this subsection  
13 into the Treasury to the credit of the appropriations  
14 then current and chargeable for the cost of providing  
15 such services.

16 (2) **CONTINUATION OF CERTAIN ASSISTANCE.**—  
17 Notwithstanding any other provision of this section,  
18 the Secretary is authorized to continue to provide fa-  
19 cilities, and necessary support services for such fa-  
20 cilities, to the Council after the date specified in  
21 subsection (a), on a space available, reimbursable  
22 cost basis.

23 **SEC. 205. VOLUNTEER STATUS.**

24 (a) **IN GENERAL.**—Notwithstanding any other provi-  
25 sion of law, the Secretary may accept, without regard to  
26 the civil service classification laws, rules, or regulations,



1 the services of the Council, the Board, and the officers  
2 and employees of the Board, without compensation from  
3 the Secretary, as volunteers in the performance of the  
4 functions authorized under this Act.

5 (b) INCIDENTAL EXPENSES.—The Secretary is au-  
6 thorized to provide for incidental expenses, including  
7 transportation, lodging, and subsistence to the officers and  
8 employees serving as volunteers under subsection (a).

9 **SEC. 206. AUDITS, REPORT REQUIREMENTS, AND PETITION**  
10 **OF ATTORNEY GENERAL FOR EQUITABLE RE-**  
11 **LIEF.**

12 (a) AUDITS.—The Council shall be subject to audit-  
13 ing and reporting requirements under section 10101 of  
14 title 36, United States Code, in the same manner as is  
15 a corporation under part B of that title.

16 (b) REPORT.—As soon as practicable after the end  
17 of each fiscal year, the Council shall transmit to Congress  
18 a report of its proceedings and activities during such year,  
19 including a full and complete statement of its receipts, ex-  
20 penditures, and investments.

21 (c) RELIEF WITH RESPECT TO CERTAIN COUNCIL  
22 ACTS OR FAILURE TO ACT.—If the Council—

23 (1) engages in, or threatens to engage in, any  
24 act, practice, or policy that is inconsistent with the  
25 purposes of the Council under section 201(b); or

1           (2) refuses, fails, or neglects to discharge the  
2           obligations of the Council under this Act, or threat-  
3           ens to do so;  
4   then the Attorney General of the United States may peti-  
5   tion in the United States District Court for the District  
6   of Columbia for such equitable relief as may be necessary  
7   or appropriate.

8   **SEC. 207. UNITED STATES RELEASE FROM LIABILITY.**

9           The United States shall not be liable for any debts,  
10   defaults, acts, or omissions of the Council. The full faith  
11   and credit of the United States shall not extend to any  
12   obligation of the Council.

13   **SEC. 208. GRANTS TO COUNCIL; TECHNICAL ASSISTANCE.**

14           (a) GRANTS.—

15           (1) IN GENERAL.—Not less frequently than an-  
16           nually, the Secretary shall award a grant to the  
17           Council, to be used to carry out the purposes speci-  
18           fied in section 201(b) in accordance with this sec-  
19           tion.

20           (2) GRANT AGREEMENTS.—As a condition to  
21           receiving a grant under this section, the secretary of  
22           the Board, with the approval of the Board, shall  
23           enter into an agreement with the Secretary that  
24           specifies the duties of the Council in carrying out  
25           the grant and the information that is required to be

1 included in the agreement under paragraphs (3) and  
2 (4).

3 (3) MATCHING REQUIREMENTS.—Each agree-  
4 ment entered into under paragraph (2) shall specify  
5 that the Federal share of a grant under this section  
6 shall be 80 percent of the cost of the activities fund-  
7 ed under the grant. No amount may be made avail-  
8 able to the Council for a grant under this section,  
9 unless the Council has raised an amount from pri-  
10 vate persons and State and local government agen-  
11 cies equivalent to the non-Federal share of the  
12 grant.

13 (4) PROHIBITION ON THE USE OF FEDERAL  
14 FUNDS FOR ADMINISTRATIVE EXPENSES.—Each  
15 agreement entered into under paragraph (2) shall  
16 specify that no Federal funds made available to the  
17 Council (under the grant that is the subject of the  
18 agreement or otherwise) may be used by the Council  
19 for administrative expenses of the Council, including  
20 salaries, travel and transportation expenses, and  
21 other overhead expenses.

22 (b) TECHNICAL ASSISTANCE.—

23 (1) IN GENERAL.—Each agency head listed in  
24 paragraph (2) shall provide to the Council such tech-

1 nical assistance as may be necessary for the Council  
2 to carry out the purposes specified in section 201(b).

3 (2) AGENCY HEADS.—The agency heads listed  
4 in this paragraph are as follows:

5 (A) The Secretary of Housing and Urban  
6 Development.

7 (B) The Secretary of the Interior.

8 (C) The Commissioner of Indian Affairs.

9 (D) The Assistant Secretary for Economic  
10 Development of the Department of Commerce.

11 (E) The Administrator of the Small Busi-  
12 ness Administration.

13 (F) The Administrator of the Rural Devel-  
14 opment Administration.

15 **SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) AUTHORIZATION.—There are authorized to be ap-  
17 propriated to the Department of the Interior, \$10,000,000  
18 for each of fiscal years 2000, 2001, 2002, 2003, and 2004,  
19 to be used in accordance with section 208.

20 (b) ADDITIONAL AUTHORIZATION.—The amounts  
21 authorized to be appropriated under this section are in  
22 addition to any amounts provided or available to the Coun-  
23 cil under any other provision of Federal law.



Senator INOUE. It is now my distinct pleasure to call upon the Honorable Tim Johnson, a Member of the United States Senate.

**STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA**

Senator JOHNSON. Thank you, Vice Chairman Inouye. I am especially appreciative of your calling this hearing today, particularly given the conflict of schedules that is going on and particularly your willingness to come over and join us here today.

I would like to thank you as well for the opportunity to address the committee on S. 1148, the Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act, and S. 1658, the Wakpa Sica Reconciliation Place Act and ask that my entire written statement be added to the record.

I want to recognize Madonna Archambeau, chairwoman of the Yankton Sioux Tribe; Michael Jandreau, chairman of the Lower Brule Sioux Tribe; Webster Two Hawk, the commissioner of Intergovernmental Affairs for the State of South Dakota; Bill Fischer, president of the American State Bank; and Clarence Skye, executive director of the United Sioux Tribes of South Dakota Development Corporation and thank them for coming to Washington to testify today, as well as with Julie Johnson who has joined us as well.

As a cosponsor of both pieces of legislation, along with my colleague and friend from South Dakota, Senate Minority Leader, Tom Daschle, I would like to share my support for both of these important bills.

This extremely important issue is the highest priority to the Yankton Sioux Tribe and will have a positive and lasting impact on the Yankton Reservation Community and the entire State of South Dakota.

I believe the bill is worthy of strong Senate support and I look forward to working with my colleagues to ensure the bill moves forward to approval by the full Senate.

The Yankton Sioux Tribe and the Santee Sioux Tribe Trust Fund Act will establish a trust fund within the Department of Treasury for the development of certain tribal infrastructure projects for the Yankton and Santee Sioux Tribes as compensation for lands lost to Federal public works projects.

The trust fund would be capitalized from a small percentage of hydropower revenues that would be approximately \$34 million. Independent research has concluded that the economic loss to the tribe justifies such a compensation fund.

The tribe would then receive the interest from the fund to be used according to a development plan based on legislation previously passed by Congress and prepared in conjunction with the Bureau of Indian Affairs and the IHS.

The type of funding mechanism has seen unanimous support from Congress through recent passage of the Cheyenne River and Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act, as well as the Crow Creek Trust Fund legislation passed last Congress.

I think it is important for the Senate to understand the historic context of this proposed compensation. As you may know, the Flood Control Act of 1944 created five massive earthen dams along the

Missouri River. Known as the Pick-Sloan Plan, this public works project has since provided much-needed flood control, irrigation and hydropower for communities along the Missouri. Four of the Pick-Sloan dams are located in South Dakota and the benefits of the project have proven indispensable to the people of my State.

Unfortunately, construction of the dams was severely detrimental to economic and agricultural development for several of South Dakota's tribes, including the Yankton Sioux and the Santee Sioux Tribes. Over 4,200 acres of the two tribes' most fertile and productive land—the basis for its tribal economy—were flooded.

This legislation will enable the Yankton and Santee Sioux Tribes to address and improve their infrastructure and will provide the needed resources for further economic development within the reservation communities.

However, the damage caused by the Pick-Sloan projects touched every aspect of life in South Dakota, on and off the reservation. The economic development goal targeted in this approach is a pressing issue for surrounding communities off the reservation as well, because every effort toward healthy local economies in rural South Dakota resonates throughout the State.

Mr. Chairman, the tribes in my State experience some of the most extreme poverty and unemployment throughout all of America.

Under the current chairwoman, Madonna Archambeau, the Yankton Sioux Tribe has been a leader in economic development initiatives within the reservation community and I believe this bill will reinforce and further the economic development successes of that tribe.

I look forward to working with my colleagues on this important piece of legislation.

In addition, I am pleased to be a cosponsor to the Wakpa Sica Reconciliation Place Act which will establish the Wakpa Sica Reconciliation Place in Fort Pierre, SD.

This Wakpa Sica Reconciliation Place will be an important cultural and interpretive center, in part to compliment the National Lewis and Clark Trail, but with the unique perspective of the Sioux Tribes and the impact of the Lewis and Clark encounter on tribal culture and economics.

During the Lewis and Clark expedition, Captains Merriwether Lewis and William Clark anchored their river boats where the Wakpa Sica, or Bad River, flows into the Missouri. After 4 months of travel from St. Louis, history was made on September 24, 1804. The next day 44 men landed on the west bank of the Missouri and paraded under the U.S. flag.

These men then joined Chief Black Buffalo and braves from the Teton Sioux for council in the chief's buffalo-skin lodge. This was a key and pivotal meeting between representatives of the great Sioux Tribes and those of the United States. This meeting was less than amicable.

Throughout the rest of South Dakota's history the relationship between native peoples and non-natives has not always been a peaceful one. Today we are still facing the challenge and experience of working and living together side by side.

I am proud of the South Dakotans who have set their differences aside and come together and created the Mni Wiconi water project, as well as other cooperative efforts between tribal and non-tribal people. But there is a growing need for a reconciliation place.

It is my hope that this center will bring people together to learn about the culture and rich history this area of the United States holds and through this understanding it is my hope that we may be able to achieve better relations between tribal and non-tribal peoples.

The project is a cultural center which will serve as a home for Sioux law, history, culture, and arts for the Lakota, Dakota, and Nakota peoples. It will also serve as a repository for Sioux historical documents which are currently scattered throughout the West.

The reconciliation place will also be the home if the Sioux Nation supreme court. This will serve to be a stable legal setting to assist in achieving greater social and economic welfare in Indian country. Increased native stability will help promote business investment and the vast human resources that are situated on the reservations in my State.

Mr. Vice Chairman, this focal point for Native American culture, law and economic development assistance is desperately needed. It is apparent, especially after the release of the United States civil rights report on South Dakota race relations that there is a need to strengthen current and build future understanding between Indian and non-Indian peoples, as well as promote the government to government relationship between the tribes and the United States.

Mr. Chairman, I encourage passage of both S. 1148 and S. 1658. Thank you again for holding this very timely hearing today and for giving me this opportunity to testify.

[Prepared statement of Senator Johnson appears in appendix.]

Senator INOUE. Thank you for your statement. I wish to advise you that I support this initiative. As you know, the administration has indicated it's support for this measure, but it would do so with three amendments. May I discuss these amendments with you?

Senator JOHNSON. I would very much appreciate it.

Senator INOUE. The first proposed amendment would make the trust funds subject to the pay-as-you-go requirements of the Budget Act of 1990. Would you have any objection to that?

Senator JOHNSON. Off hand, I would not. Of course, I would like to confer with counsel, but that sounds like a reasonable requirement to me.

Senator INOUE. The second amendment would prohibit per capita payments to tribal members.

Senator JOHNSON. Again, I have not had an opportunity to confer with the tribal chairs on that, but I personally approve of that policy approach.

Senator INOUE. And the third amendment would extinguish all tribal monetary claims against the United States associated with the two dams in exchange for the trust funds.

Senator JOHNSON. It sounds reasonable to me. This was intended to be final compensation for those impoundments.

Senator INOUE. I thank you very much for your response. If you wish to, I will have my staff confer with your staff.



Senator JOHNSON. We will do so and work very closely with you. I very much appreciate your taking time out of your schedule for this. I will be conferring closely with the tribal leadership and non-tribal leaders as well on this issue and work closely with you on the language that would incorporate these recommendations from the administration.

Obviously, I am also appreciative of the Clinton administration for their support. I look forward to bipartisan support on this committee and in the Senate as a whole. Thank you, Mr. Chairman.

Senator INOUE. I thank you very much. I have a prepared opening statement. There being no objection, I will place that statement in the record at this time.

[Prepared statement of Senator Inouye appears in appendix.]

Senator INOUE. The next panel consists of Madonna Archambeau, chairwoman of the Yankton Sioux Tribe of South Dakota; Arthur "Butch" Denny of the Santee Sioux Tribe of Niobrara, NE, accompanied by James White, tribal elder.

May I first call upon the chairwoman of the Yankton Sioux Tribe, Madonna Archambeau. Welcome.

**STATEMENT OF MADONNA ARCHAMBEAU, CHAIRWOMAN, YANKTON SIOUX TRIBE, MARTY, SD, ACCOMPANIED BY MICHAEL LAWSON, HISTORIAN**

Ms. ARCHAMBEAU. Thank you, Mr. Chairman and members of the committee for this opportunity to speak on behalf of my tribe.

Mr. Chairman, my name is Madonna Archambeau and I serve and the elected tribal chairman for the Yankton Sioux Tribe. Our land is located in the southeastern corner of South Dakota.

I have asked Dr. Michael Lawson to accompany me today. Dr. Lawson is a respected historian who has developed an expertise on the Pick-Sloan Program and its impact on Indian tribes.

Dr. Lawson has done extensive work on the tribe's claim to have served as a basis for S. 1148. He is here to assist me with questions from the committee.

First, I would like to express my sincere appreciation for the committee's consideration of the S. 1148. We have been working several years now to relieve some of the harm that our tribe has suffered as a result of the Fort Randall dam on the Missouri River.

I am honored to be here today to speak in support of this legislation. Now I would like to make a few points regarding S. 1148.

The construction of the Fort Randall Dam and Reservoir on the Missouri River destroyed an important part of my tribe's traditional way of life. The Missouri River bottomlands were rich with game and plants and used for our traditional food. We used the plants for ceremonies and medicines. The trees in the bottomlands were used for lumber and fuel. We lost our tribal lands when the bottomlands were flooded.

But much of our traditional way of life was taken from us, too. Our tribe lost acres and acres of rich, productive agricultural land. We lost 3,260 total acres due to the construction of the Fort Randall Dam and Reservoir and we lost the entire community of White Swan.

It was the practice of the United States to move the Indian communities flooded by the dam construction to higher ground and be



re-established. But our tribal community of the White Swan was not relocated. It was simply destroyed. The families disbursed elsewhere and the community was never replaced.

This was and still is a great loss to our people. I would like to recognize one of our tribal elders who traveled to be with us today.

My tribe and the Santee Tribe do not have the same opportunity to negotiate and obtain settlements by acts of Congress as the other Missouri River tribes did.

Our land was taken by condemnation proceedings in the district court. As a result, my tribe and the Santee have suffered great inequities in the initial settlement for the taken land.

Congress enacted legislation for four upstream Missouri River tribes whose losses were similar to ours. S. 1148 is similar legislation.

S. 1148 will provide the tribe with an interest payment from the trust fund established to compensate the tribe for its losses and bring some equity to the issues of the Pick-Sloan taking.

The income will assist tribes in their economic development need and help strengthen cultural and social programs. This, in turn, will help the tribe move toward a greater self-determination in its tribal affairs.

I would like to offer to the committee members a copy of a letter written by South Dakota Governor Bill Janklow supporting this legislation. The Governor and our tribe do not always see agree on tribal or State matters, but we are in agreement on the need for this bill.

Our tribal members support this bill. It will help heal some of the wounds our tribal elders have suffered. The bill directs our Tribal Council to develop a plan as to how the interest payments will be used.

Our tribal plan will include programs that will benefit all the tribal members, our elders and our young people.

Mr. Chairman and committee members, this bill, S. 1148, is very important to the future of the Yankton Sioux Tribe. For these reasons, I ask the committee to support us in our efforts to obtain equitable compensation for our past inequities.

In closing, I want to thank Senator Daschle for his support and his staff for their assistance and guidance. I would like to thank our cosponsor, Senator Tim Johnson, Bill Kerrey, and Chuck Hagel.

I thank the members of this committee and respectfully ask the members to support our bill and take positive action by recommending its passage to the full Senate. Thank you.

[Prepared statement of Ms. Archambeau appears in appendix.]

Senator INOUE. Thank you very much, Madam Chair.

Why were your White Swan citizens dispersed and not relocated?

Ms. ARCHAMBEAU. I think at that time they just moved here and there. I know I lived in the Viborg community. They were not given on spot or anything. They were just moved out.

Senator INOUE. The administration testimony says that your tribe was awarded \$121,000 in damages. Is that what you are seeking?

Mr. LAWSON. If I may answer that question, Mr. Chairman.

Senator INOUE. Will you identify yourself, please?

Mr. LAWSON. Yes; my name is Michael Lawson. I am a historian who has done work for both of these tribes on this issue, as well as the general history of the Pick-Sloan Plan and its development.

The tribe did receive compensation from Congress for the direct damages as they were appraised, the value of them, in approximately 1952. These people's land was condemned in 1947.

They were moved off the land in 1950. They did not receive those funds until 1956, about 9 years after the land had been condemned.

Not all of the families that resided there; there was approximately 20 families who were in this community; not all of those families received money because some of the people who lived there did not own the land itself.

So that was the only compensation that they have received. The record does not record why the BIA did not provide for rehabilitation of these people and for the relocation of that community to higher ground as it did in the case of Crow Creek and Lower Brule, Cheyenne River, and Standing Rock.

Senator INOUE. The administration maintains that they authorized the sum of \$121,000 for relocation. Do you know if you received any of that?

Mr. LAWSON. There was a total of \$121,000 that was received from the actual condemnation.

Senator INOUE. Was there nothing appropriated for relocation?

Mr. LAWSON. Then there were severance damages that were provided separately in 1954 for another \$106,500. But there were never any rehabilitation funds or relocation funds that were categorized the same way that they were in the other settlements.

Senator INOUE. Madam, do you support S. 1658, the other measure, the reconciliation place?

Ms. ARCHAMBEAU. Yes; we do.

Senator INOUE. Thank you.

Now may I call upon Mr. Denny.

**STATEMENT OF ARTHUR "BUTCH" DENNY, SANTEE SIOUX TRIBE, NIOBRARA, NE, ACCOMPANIED BY JAMES WHITE, TRIBAL ELDER**

Mr. DENNY. Good morning, Mr. Chairman and members of the committee. I am Chairman Butch Denny of the Santee Sioux Tribe of Nebraska. I am pleased to appear before the committee today to provide some views from the perspective of the Santee Sioux Tribe in support of S. 1148.

I will summarize my remarks from my written statement. The Santee Sioux Reservation is located in northeast Nebraska. The Missouri River borders are the reservation's northern boundary. I have attached a map to my written statement for reference to the area we are talking about.

I need not repeat the testimony of Chairwoman Archambeau, but to say that the Santee Tribe suffered similar losses as a result of the construction of the Gavins Point Dam.

Our tribal land was taken in a similar and swift manner through condemnation proceedings in district court resulting in the same inequities to the Sioux Santees as was experienced by the Yankton Sioux Tribe.

In 1952, almost 3 months before the Fort Randall Dam was completed, the Army Corps of Engineers began a construction of the Gavins Point Dam, whose waters flooded parts of our reservation.

The Santee as other Missouri River tribes lost a way of life that centered on the river bottomlands. Our bottomland environment was similar in many ways to that of the community of White Swan that once existed on the Yankton Sioux Reservation.

This is why we have joined the Yankton Sioux Tribe in seeking an equitable remedy for past unfairness in the initial taking of our tribal lands. We base the justification for our claim on the same history and treatment by the United States.

The Santee tribal membership is small and our claim is small. But our tribal losses due to the construction of the Gavins Point Dam and the reservoir was great.

The dams and reservoirs have provided many benefits to the non-Indian people in surrounding communities in the Missouri River Basin through flood control, irrigation, hydroelectric, and recreation.

It is the Indian tribes who paid most for these benefits with their lands, and it is the Indian tribes who have yet to reap the benefits of the dam projects.

There are minimal jobs on our reservation. This bill will aid us in developing economic opportunities for our members. This bill will aid us in addressing our housing, education, culture, and social welfare needs.

Many of our tribal elders are passing on. Soon there will be no elders to remember the traditional life along the rivers long ago. Our tribal elders believe that a just and equitable settlement is possible.

The Santee tribal members support this bill. One cannot measure the costs in the loss of tradition, the loss of a way of life along a free-flowing river. So we must look to the cost of measurable things: The acres of land flooded, the cost of relocation, and the like.

The Santee lost a total of 1,007 acres to the Gavins Point project. The Santee settlement claim is minimal in comparison to others that have been enacted before us. The Santee Trust Fund will be capitalized at \$8 million. It is only the interest from the trust fund that will be paid to the Santee.

However, the annual interest payments will greatly assist our tribe to develop programs through a plan developed by our tribal council.

As Chairwoman Archambeau stated, we have been working several years on this bill. With the committee's support, it is hopeful by the Santee Sioux Tribe that S. 1148 will be enacted this year.

At this time, Chairwoman Archambeau and I would like to offer an amendment that will clear up a few inaccuracies in the findings section of the bill.

I would like to conclude by saying that we, too, are grateful to Senator Daschle for his support and to his staff for their guidance during the course of this legislative process.

We extend our appreciation to our cosponsors, Senator Tim Johnson and to our Nebraska Senators, Chuck Hagel and Bob Kerrey.

Thank you, Mr. Chairman and members of the committee, we hope that we can obtain closure to this outstanding claim.

[Prepared statement of Mr. Denny appears in appendix.]

Senator INOUE. Thank you very much, Mr. Denny.

According to the Federal Government, they claim that you may have received \$52,000 from the Corps of Engineers. Do you recall receiving any money?

Mr. DENNY. Well, I was pretty young when that money was there, but Mr. Lawson has all the historical documents on that.

Mr. LAWSON. Unfortunately, I was unable to find in the court records for the Federal Court in the District of Nebraska the actual court records of how much was paid.

What I was able to find is that there was an agreement between the BIA and the Corps of Engineers that there would be a payment of \$52,000.

Unfortunately, I was unable to verify if that was the actual amount that was paid. But that is all that the historical record lends at this point.

Senator INOUE. That is why the Government says "may have been paid." So they are not certain themselves.

Mr. LAWSON. Right.

Senator INOUE. Do you support the other measure, S. 1658?

Mr. DENNY. Yes; I do, Senator Inouye.

Senator INOUE. I thank you very much, Madam Chair and Mr. Denny, I thank you.

Our next panel consists of the following: Michael Jandreau, chairman of the Lower Brule Sioux Tribe of South Dakota; Webster Two Hawk, commissioner, Intergovernmental Affairs, State of South Dakota, and William B. Fischer, president of the American State Bank of South Dakota and Clarence Skye, executive director of the United Sioux Tribes of South Dakota.

May I first recognize Michael Jandreau, chairman of the Lower Brule Sioux Tribe.

#### **STATEMENT OF MICHAEL JANDREAU, CHAIRMAN OF THE LOWER BRULE SIOUX TRIBE, LOWER BRULE, SD**

Mr. JANDREAU. Thank you, Mr. Chairman. My testimony has been provided to the committee. My comments, I would like to make very shortly so we can all have an opportunity to speak to you today.

First of all, the Lower Brule Sioux Tribe and the United Sioux Tribe of South Dakota do support S. 1148, do support this just return of dollars to the Yankton Sioux and the Santee Sioux of Nebraska.

On to the reconciliation place, I would like to state that the reconciliation place is a dream of a group of individuals, tribal members and non-tribal members who wish to develop a facility that would help to bring together the people of our State, that will help to bring together a justice system that is more appropriate than is currently existing under the process we find ourselves in.

The need for the records to be developed in one place, the need for the supreme court, the need for an area where our people can come together is long past due.

You may say why in Fort Pierre, SD. Because in Fort Pierre, SD there is much history about the relationship between the Indians and the non-Indians in the State of South Dakota.

We believe that this process is a step toward uniting the people of the State of South Dakota in making South Dakota a more productive area for members of our tribes.

We realize that the administration, through the testimony of Mark Van Norman, has identified that from Justice's perspective there is no need for the second part of the law which grants economic development dollars to be made available to our tribe.

We believe the Justice Department should be dealing with justice issues, not economic issues. It is important that they understand the reason for bringing this together at Fort Pierre, it is to try and create a political neutrality that will allow for all tribes to participate equally.

The administration has made money available for a Lakota Sioux heritage center at Badlands. We think that is fine. We agree that the Ogalalas need positive images to assist them in their own development.

We do not choose to be in competition with the Ogalalas. We ask that you seriously consider marking up this bill and it becoming law. Thank you very much.

[Prepared statement of Mr. Jandreau appears in appendix.]

Senator INOUE. Thank you. You are in favor of S. 1658 as written?

Mr. JANDREAU. Yes, sir.

Senator INOUE. Thank you.

Now may I call upon Mr. Webster Two Hawk.

**STATEMENT OF WEBSTER TWO HAWK, COMMISSIONER, INTERGOVERNMENTAL AFFAIRS, STATE OF SOUTH DAKOTA, PIERRE, SD**

Mr. TWO HAWK. Thank you, Mr. Chairman. Thank you for this privilege of testifying before you on this project Wakpa Sica.

I recently became a member of the board. I have been aware of the project initiators. They have been working at it for over 1 dozen years. This group is attempting to create a place that is friendly, a non-confrontational atmosphere where there will be involvement and exchange of idea with both Indian and non-Indian people.

I do agree that there should be a place since we Sioux people believe that the Great Spirit God afforded us a certain area on Grandmother Earth where we may live with all of our relatives in harmony and peace.

Whenever a part of us, a part of our remains or whatever of value is left behind or taken away, I firmly believe that that should be returned to a place where there is refuge and a safe place.

Therefore, I believe fully in the repatriation process which some of our tribes already have started.

Also, there are some things that are not tribal-specific and there should be a place for those, also.

I have been a chairman of the Rosebud Sioux Tribe, 30 years ago, and have experience development of the economy there. We have proven that our people will work. Our people can be trained and participate in the economy.



However, with our experience, and this may be true of other reservations, our infrastructure was not developed where we didn't have separation of power.

With the wisdom of the BIA, they have set our government with the council as the all-powerful entity. The administration and the judicial is then selected by the council.

So some of these things, I think, should relate to the development and research of the supreme court where perhaps a judicial system which is not only adversarial as we know it today, but also following the traditional belief of the Sioux people that we should create an atmosphere or create some conflict resolution atmosphere of perhaps the traditional way of resolving conflicts and disagreements along with our court system.

I would like to see that where we could then bring people together in harmony as our relatives. We are all related. So we can then bring peace and harmony through working together on the reservation.

Thereby also, we can effectuate economic development which will last. This is something that I, myself, have been very, very in supportive of; both parts, the supreme court, which also relates to the economic of our nation, the Sioux Nation.

So I certainly would hope that you would support, Mr. Chairman and others, this particular S. 1658 so that we can realize the working together of people, both Indian and non-Indian in the State of South Dakota.

I thank you very much.

[Prepared statement of Mr. Two Hawk appears in appendix.]

Senator INOUE. Thank you very much, Mr. Two Hawk. I have only one question. The land upon which this reconciliation place will be built is held in fee by your historical society; is that correct?

Mr. TWO HAWK. That is correct, Mr. Chairman.

Senator INOUE. Is that land going to continue to be held in trust by the historical society or will it be placed in trust with the Interior Department?

Mr. TWO HAWK. I would like to see it placed in trust with the Interior Department. There would be a statement by my partner here, Mr. Fischer, to that effect.

Senator INOUE. Thank you, Mr. Commissioner.

May I call upon Mr. Fischer.

#### **STATEMENT OF WILLIAM V. FISCHER, PRESIDENT, AMERICAN STATE BANK, PIERRE, SD**

Mr. FISCHER. Thank you very much, Mr. Chairman, for the privilege of presenting my testimony in support of S. 1658, legislation authorizing the construction of reconciliation place in Fort Pierre, SD to serve tribal people and the general public.

I am Bill Fischer, a third generation South Dakotan. My grandfather homesteaded in Central South Dakota in 1884. My family has dealt with tribal people since, primarily from the standpoint of a general store and in the banking area.

I am currently president of the American State Bank in Pierre, an \$80 million bank primarily devoted to agriculture.

For years we have dealt with the tribes and tribal people both as a depository as well as a source of lendable funds.

For nearly 14 years I have been involved with this project supporting the diligent and sensitive leadership of our chairman, Clarence Mortenson, an enrolled member of the Cheyenne River Sioux Tribe.

The other key leader in this effort has been Michael Jandreau, chairman of the Lower Brule Sioux Tribe. His notable leadership ability is evidence by the fact that he has been the chairman of the Lower Brule Sioux Tribe for many, many years.

These two gentlemen and other involved tribal leaders have brought cultural sensitivity to this project. This is an extremely important part.

The second important part is the significant support for this project as evidenced by the statement of support from Senator Daschle, Senator Tim Johnson, Congressman John Thune, Governor Janklow, former Governor Mikkelsen, the State Bar Association, the State Chamber of Commerce, the State Retailers Association, and the mayors of the cities of Pierre and Fort Pierre and the county commissioners of the respective counties.

Notable, too, is the fact that nearly 80 acres of land has been acquired from private individuals and public entities to become the site for this reconciliation place which property is owned by Wakpapa Historical Society, a non-profit organization.

It is also located on the West Bank of the Missouri River, the exact site where Lewis and Clark met with tribal leaders in 1804 and George Catlin conceived the idea for the establishment of the National Park Service in 1831.

It is also within sight of the Verendrye Monument where in 1743 French explorers buried a lead tablet to claim this region for France. That tablet exists today.

This site has always been a peaceful site and a significant place in the history of the Sioux Nation with its interaction with explorers.

The six major thrusts of this project promise significant services for the Sioux Tribes of North Dakota, South Dakota, and Nebraska to the extent that they use these services.

The point is that tribal participation will be at the discretion of each tribe, notably leaders of 10 of the 11 Sioux Tribes have gone on record supporting this project.

The need to upgrade, expand and extend support for the tribal legal systems is a key to this project. We are pleased to have the participation of the University of South Dakota School of Law, the University of North Dakota School of Law, and help with the research and improvements needed for this court system.

Establishment of a Sioux Nation supreme court can bring a discipline, commonality of reporting and interpretation that can build awareness and confidence of all the persons involved in all the economic activities on the reservation.

We are committed to making this a part of the projects that all 11 tribal governments and their people can be proud of. It is culturally sensitive and offers alternatives to dispute resolution mechanisms relevant to the culture. This can improve the effectiveness of the economic development effort for the entire Sioux Nation.

Another key area of the project is the Lewis and Clark Center to interpret the visit of Lewis and Clark from the tribal standpoint.

As was noted in a June 1997 letter from Richard M. Williams, manager of the Lewis and Clark Historic Trail System, this will be the only center from the tribal standpoint as far as the Lewis and Clark trail is concerned.

The establishment of a repatriation center for the Sioux Nation to provide administrative and interpretive services, plus physical storage and transfer of sensitive cultural, spiritual and funerary objects is needed with a growing urgency in the minds of the Sioux tribal leaders, especially for those whose exact origin is not determined.

Another area that is to be addressed is the Sioux national archives where tribal people can research their genealogy. This can only be done by traveling to St. Louis, MO, Denver, CO, or Salt Lake City, UT.

A world-class cultural museum dedicated exclusively to the Sioux is an additional significant part of the reconciliation place.

Finally, plans call for an area of the complex to be devoted to Native American economic development. This is especially important with the current unemployment exceeding 50 percent on most reservations.

The multiple missions of this project are essential and offer profound promise to build reconciliation among all peoples. Our hope for reconciliation drives the leaders of this project to strive for reconciliation among peoples of this Nation.

Our sincere thanks to Senator Daschle and his staff for helping to bring out dreams to your attention and consideration.

Thank you very much.

[Prepared statement of Mr. Fischer appears in appendix.]

Senator INOUE. I thank you very much, Mr. Fischer. The committee is most impressed by the broad support in the non-Indian community for this reconciliation place. We congratulate you.

I suppose you would want this land to be placed in trust.

Mr. FISCHER. Yes; you know, I cannot speak for the total board. We have talked about it. We have no problem with it. We just want to see it accomplished. Whatever it takes to do it, Senator, we think we can deliver.

Senator INOUE. I will have to call a short recess because I have just 2 minutes left to vote. I will be right back.

[Recess.]

Senator INOUE. The hearing will come to order.

We will now call upon Mr. Skye.

**STATEMENT OF CLARENCE SKYE, EXECUTIVE DIRECTOR,  
UNITED SIOUX TRIBES OF SOUTH DAKOTA DEVELOPMENT  
CORPORATION, PIERRE, SD**

Mr. SKYE. Mr. Chairman, my name is Clarence Skye, executive director, United Sioux Tribes of South Dakota. I have been for some 28 years off and on.

I appreciate your support for a lot of the Indian projects over the years. You have done a commendable job. Also, hopefully, at some time the natives from Hawaii will come in with a cultural center such as ours.

It has taken many years for us to develop a relationship with the non-Indian community. It has taken us a lot of hardship, breaking



barriers and working with people. There is no power unless you are working together in cooperation with one another trying to establish some end to your work.

In response to your question on the land being put into trust, I would like to see an amendment, as we discussed during the break, an amendment by statute to put this land into trust rather than go through all the administrative transfers, politics and all that kind of stuff.

Senator we support also S. 1148, the Yankton Sioux Tribe and the Santee Sioux Tribe endeavor to get the claim through.

In South Dakota we have a lot of Indian youth going through the court systems. I think there was an article in the newspaper and I will refer to my testimony, over 1,204 students per 100,000 are going through the court systems which are three times the rate of non-Indians.

In Rapid City, we have from 40 to 50 kids that are in chains, red outfits, and it is very sad to see them going through the court system for not being in school or being picked up for some reason or another.

We would like the Sioux Nation supreme court system to be able to deal with a lot of our Indian people going through the State and Federal courts. Because a lot of time when they go through the Federal courts they are shanghaied right into prison.

It is sad that our Indian people are being pushed and railroaded through the court systems. There is a lot of discussion in South Dakota about is there discrimination in the court system and I think there is.

We don't have the means financially to help our kids through those court systems. So the Sioux Nation's supreme court is a very vital part of the reconciliation place.

Over the years we have worked hard to work with the judges, work with the lawyers, work with people in the tribes. When Webster was the tribal chairman he worked with the court system, Mike Jandreau, Madonna from the Yankton Sioux Tribe, and Butch Denny from the Santee, as all the others have.

So those are just a few things that I wanted to mention. That is all I have at this point. I appreciate your patience.

Senator INOUE. Thank you very much, Mr. Skye.

[Prepared statement of Mr. Skye appears in appendix.]

Senator INOUE. Are you familiar with the Lakota Sioux Heritage Cultural Center at Badlands National Park?

Mr. SKYE. Yes; I am, sir.

Senator INOUE. Will that Badlands Park Center duplicate some of the functions of the reconciliation place?

Mr. SKYE. No, sir; I won't duplicate anything. I know that there are many museums around the country and there are many cultural centers around the country.

A lot of the concepts, as you know, there is the All-Pueblo Council Cultural Center down there in Albuquerque, NM. They do many, many things. Ours will do the same. Theirs is not in any way, as I see it, in conflict with ours.

Senator INOUE. I thank you very much, Mr. Skye. Thank you for waiting so patiently, but as you can see, we are having a con-

fused situation in the U.S. Senate. At this moment, our leader, Senator Daschle, is not able to be with us because of this confusion.

So without objection, his full statement will be made part of the record. Incidentally, obviously, he supports both of you.

Thank you very much.

[Prepared statement of Senator Tom Daschle appears in appendix.]

Senator INOUE. Now for the final panel. May I call upon the director of the Office of Tribal Justice, Department of Justice, Mark Van Norman; and the director of the Office of Trust Responsibilities of the Department of the Interior, Terry Virden.

Thank you for your patience in waiting. As you know, we are having some strange times here. It is always good to see you.

Mr. Van Norman, we have received your statement, incidentally, and it will be made a part of the record.

**STATEMENT OF MARK VAN NORMAN, DIRECTOR, OFFICE OF TRIBAL JUSTICE, DEPARTMENT OF JUSTICE, WASHINGTON, DC**

Mr. VAN NORMAN. Good afternoon, Mr. Chairman. I am Mark Van Norman. I am the director of the Office of Tribal Justice.

Tribal representatives have told us that they view efforts to promote the unity of the Sioux Nation as an important objective and support the concept of the Sioux Nation supreme court.

The department joins the Sioux Tribes in the State of South Dakota in supporting a strong tribal court system as envisioned by section 102 of S. 1658. The department has been working on civil rights concerns and tribal justice concerns among Native Americans generally and in particular among the Sioux Nation.

The Department of Justice, for example, participated in a recent advisory committee hearing of the U.S. Civil Rights Commission. That commission made a recommendation that the Departments of Justice and the Interior should expand their efforts to provide funding, training, and technical assistance to tribal courts and tribal law enforcement.

Three years before this recommendation, with the assistance of the committee, the Department of Justice and the Department of the Interior undertook the Indian country law enforcement initiative.

The Advisory Committee's recommendation simply enforces the importance of our fiscal year 2001 budget request and we have asked for \$173 million to improve tribal law enforcement and justice systems, including \$45 million for tribal police, \$34 million for detention, \$20 million for juvenile justice, and we think very importantly, \$15 million for tribal courts.

This is essential because tribal law enforcement is a necessary adjunct to Federal law enforcement in areas like South Dakota that rely on the Department of Justice for basic law enforcement against felony crimes.

Tribal courts are also necessary partners with tribal police in maintaining basic public safety in Indian country.

The department supports the formation of inter-tribal courts consistent with tribal self-determination. The Sioux Tribes have a vital need in this area in particular. The demographics bear that out.

We have been working in cooperation with the Bureau of Indian Affairs and the tribes of the Sioux Nation under the Indian Law Enforcement initiative.

The history of the Sioux nation supports the need for reconciliation. Historically, the United States had a policy of good faith toward Indian tribes. Consistent with this policy, President Jefferson sent out the Lewis and Clark expedition.

On its way through South Dakota, it made its way up the Missouri River and, for example, stopped among the Yankton Sioux Tribe. There is a story that is very important among the Yankton Sioux about Chief Struck-by-the-Ree and Merriwether Lewis. When Struck-by-the-Ree was a baby, Lewis wrapped him in the American flag.

Chief Struck-by-the-Ree remained a friend of the United States throughout his whole life and entered into the Yankton Sioux Treaty of 1858, maintaining the peace with the United States.

So you can see the importance of the Lewis and Clark expedition in that example. The Lewis and Clark expedition stopped and visited the Sioux at other places along the Missouri.

Clearly the United States' relations with the Sioux Nation have not always been good. After the Civil War, the United States' expansion westward brought conflict. The Sioux Nation saw their buffalo herds decline with the passage of settlers along the Oregon Trail.

In 1866, the United States sought to build a road through the last great Sioux hunting ground in the Powder River country. The Sioux Nation fought a war to protect that hunting ground.

The United States, at the end of the war, entered into the Treaty of 1868 with the Sioux Nation that pledged peace and pledged the honor of the United States to maintain the peace. It also set aside South Dakota, west of the Missouri River, as the permanent home of the Sioux Nation.

In 1874 gold was discovered in the Black Hills and a gold rush began. After attempting to maintain the reservation boundaries, the Grant administration sought first to purchase the Black Hills, but the Sioux Nation refused and then next ordered the Sioux to report to Indian agencies along the Missouri River.

When Sitting Bull, Crazy Horse and others refused to comply, the United States sent out the Army. We all know the result: Custer's defeat at the Little Big Horn. Well, after Custer's defeat, the United States sent out more Army. That resulted in a number of battles where many Sioux people were killed or driven to exile in Canada.

In 1877, Congress passed an act taking the Black Hills. In the 1880's, Congress sought more land from the Sioux. In the 1889 agreement, the Great Sioux Reservation was divided into the Cheyenne River, Crow Creek, Lower Brule, Pine Ridge, and Standing Rock Reservations.

The United States acquired several million acres of surplus land. Around this time the Ghost Dance religion developed and this scared some of the neighboring people. They called for the Army and the Army came out with the result of the Wounded Knee Massacre where over 300, unarmed Sioux men and mostly women and children were massacred.

Recently the United States and the Congress have expressed regrets for the Wounded Knee Massacre. But clearly these events have left scars throughout the generations of Indian people in South Dakota. We continue to feel the loss of these events.

Against this background, it is appropriate for Congress to promote a reconciliation place to reflect the history of the Lewis and Clark expedition and the history of the Sioux Nation.

This effort would help foster a healing spirit of reconciliation among the tribes of the Sioux Nation and other citizens of South Dakota and will promote a better understanding of Native Americans history and culture among the nation as a whole.

This committee might also consider reconciliation in a larger sense. You now, we sometimes have inter-tribal conflicts or conflicts with border towns and tribal communities. Our Department of Justice Community Relations Service goes out and provides some mediation service.

They would like to work with the Sioux tribes and work on mediation issues at this center, if it becomes a reality.

I also have a couple of technical issues regarding S. 1658. section 102(a) should probably authorize the department to provide appropriate technical and financial assistance. That is set out in the testimony.

I heard United Sioux Tribes Director Clarence Skye's testimony about the trust lands. We think it is important that the authority of the Sioux Nation be clear and it would facilitate clarity to have the Sioux Nation Supreme Court be located on trust land. So we would support a provision that puts that land into trust if the Sioux Tribe's wish to do so.

In conclusion, the administration supports the vision of strong tribal courts that is embodied in S. 1658. I thank you for the opportunity to testify here today.

[Prepared statement of Mr. Van Norman appears in appendix.]

Senator INOUE. I am pleased by your very eloquent statement in support of the reconciliation place, and yet in your prepared statement you state that the administration believes that the construction of the reconciliation place may be unnecessary.

Mr. VAN NORMAN. I was instructed to include those paragraphs reflecting the administration's statement. My understanding is that they relate to allocation of the construction dollars.

But the Department of Justice still supports the concept of reconciliation and we still recognize the need for reconciliation between the United States and the Sioux Nation and to promote reconciliation between Indians and non-Indians in South Dakota.

Senator INOUE. Mr. Mark Van Norman, having worked with you for the past 2 years, I am impressed by your integrity. I take your word for the Justice Department.

Mr. VAN NORMAN. Thank you.

Senator INOUE. And so, following your lead, I will support this. Thank you.

Now I will call upon Terry Virden.

**STATEMENT OF TERRY VIRDEN, DIRECTOR, OFFICE OF TRUST RESPONSIBILITIES, DEPARTMENT OF THE INTERIOR, WASHINGTON, DC**

Mr. VIRDEN. Thank you, Mr. Chairman. I am pleased to be here today to present the administration's views on S. 1148.

I want to thank Senator Daschle for introducing this important bill that addresses impacts to the Yankton Sioux Tribe and the Santee Sioux Tribe resulting from the Pick-Sloan Missouri River Basin Program, and in particular, the development of the Fort Randall and Gavin Point Projects.

If enacted, this bill would give the tribe much deserved benefits to compensate for those impacts. While the administration supports compensating the tribe, we are concerned that the compensation figures on a critical basis are higher than those awarded previously to other tribes that were compensated for losses resulting from the Pick-Sloan Project.

We look forward to working with the committee to discuss these values and the rationale behind the amounts ordered under S. 1148.

S. 1148 is a continuation of the United States' honorable efforts to correct inequities resulting from this regional project which severely affected Indian tribal homelands along the Missouri River.

In the 1990's the United States forthrightly addressed the impacts to the Standing Rock Sioux Tribe and the Three Affiliated Tribes of the Fort Berthold Reservation, the Crow Creek Sioux Tribe and the Lower Brule Sioux Tribe.

S. 1148 addresses and mitigates the impact of the Missouri River Pick-Sloan project on the remaining two tribes.

The history of the project is relatively well known. Several other speakers today have gone over it. So I will skip the part of my testimony that addresses that history. But I would like to say that the pre-project tribal economies never did recover from the loss of these rich, wooded bottomlands.

In the 1950's the Yankton Sioux Tribe and its affected tribal members received a total of \$227,000 from the Government for damages associated with the Fort Randall Project. Of this amount, \$121,000 was awarded to them by the U.S. District Court for direct damages as a result of condemnation proceedings.

Congress authorized the appropriation of an additional \$106,000 in 1954 to be available for relocating Yankton Sioux Tribal members who resided on tribal and allotted lands.

Unfortunately, the Yankton Sioux Tribe did not receive any additional funding for rehabilitation programs.

This bill proposes to provide them with \$34.3 million in additional compensation for the lost value of 2,851 acres of land taken for the Fort Randall Dam and Reservoir and for the use value of 400 acres of land that has been lost as a result of erosion since the project was built.

Information concerning the amount paid to the Santee Sioux Tribe condemnation settlement is sketchy and I referenced to earlier that it is unclear whether that money was ever paid to the tribe.

Like Yankton, the Santee Sioux Tribe did not receive any rehabilitation funds, either. This bill proposes to provide them with \$8.1



million in additional compensation for the lost value of 600 acres of land located near Santee Village and for 400 acres on Niobrara Island on the Santee Sioux Tribe Indian Reservation used for the Gavins Point Dam and Reservoir.

The administration could support S. 1148 with amendments. First, the funding mechanisms in section 4(b) for Yankton in this act and section 5(b) for Santee Sioux would be subject to pay-as-you-go requirements. The administration is concerned that any amounts required to establish the fund would need to be offset. We are willing to work with the committee on developing a viable solution.

Second, we recommend that section 6 be amended to add a subsection which would prohibit per capita payments to tribal members. A similar prohibition was included in the earlier Pick-Sloan project compensation acts.

Our final recommendation is to include a new section which would address any further claims of the tribe against the United States.

This concludes my testimony. I would be happy to answer any questions.

[Prepared statement of Mr. Virden appears in the appendix.]

Senator INOUE. Thank you very much. You have indicated that although you support compensating the Yankton and Santee Sioux Tribes, you question the amount.

Do you have any amount you would like to suggest?

Mr. VIRDEN. No; I don't, Mr. Chairman. I think the administration is concerned more with understanding the rationale and working with the committee to justify that rationale.

Senator INOUE. At this moment the fire still rages in New Mexico and we are told that 300 homes have been destroyed. We have been receiving reports that bills are now being introduced and are heavily supported which call for compensation in the amount of about \$1 billion.

I realize that this is apples and oranges. But it has been suggested that the Yankton and Santee amounts are too large. Three hundred homes in New Mexico for \$1 billion; is that justice?

Mr. VIRDEN. Personally, I think you make a very good point. I guess I would bring that point back to the administration.

Senator INOUE. I hope you will, sir.

I thank you very much and I thank you for your patience in waiting. You have been around the Government long enough to know that we are in a mess right now.

We thank you. The hearing is recessed.

[Whereupon, at 4:20 p.m. the committee was adjourned, to reconvene at the call of the Chair.]

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## APPENDIX

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### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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PREPARED STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII,  
CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

On behalf of the members of the Committee on Indian Affairs, I welcome all of you to the committee's hearing on two bills that have been introduced by Senator Daschle and which were referred to this committee.

The chairman of the committee is not able to be with us this afternoon because another hearing that the committee was scheduled to hold this morning has been moved to this same time and is being held in another room in the Senate.

This afternoon, the committee will first receive testimony on S. 1148, the Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act. This bill was introduced by Senator Daschle of South Dakota and Senator Kerrey of Nebraska and cosponsored by Senators Johnson and Hagel.

This legislation would establish trust funds in the U.S. Treasury for the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska.

It would authorize the Yankton Sioux Trust Fund to be capitalized with \$34 million, and the Santee Sioux trust fund to be capitalized with \$8 million.

The historical basis for this legislation is essentially the same as that for five similar bills that this committee has reported to the full Senate over the last 8 years.

Enactment of the flood control act of 1944 led to the construction of five massive dams on the Missouri River.

Each dam inundated the rich bottomlands that were central to the subsistence, culture, and economy of the tribes that had traditionally occupied those lands.

The construction of each dam and the inundation of lands below those dams forced the relocation of Indian communities to higher ground that was typically arid, and those relocations not only disrupted but forever altered the lives of the affected tribes and their citizens.

While the historical record shows that the United States provided each affected tribe with a measure of compensation, the compensation was not commensurate with the losses suffered by the tribes.

In the 1980's, a joint Federal-tribal study of the Missouri River dams and their related impacts on the tribes confirmed that the tribes had been seriously under-compensated.

Beginning in 1992, the Congress enacted legislation providing additional compensation for the tribes of the Fort Berthold Reservation, the Standing Rock Sioux Tribe, and the Crow Creek and Lower Brule Sioux Tribes.

A similar bill to compensate the Cheyenne River Sioux Tribe is now pending in the House of Representatives.

S. 1148 would provide additional compensation to the Yankton Sioux Tribe and the Santee Sioux Tribe for losses resulting from the construction of the Fort Randall and Gavins Point dams.

This legislation would thus complete the process of providing more equitable compensation to the tribes who bore the brunt of the adverse impacts of the construction of dams along the Missouri River.

The second measure on which the committee will receive testimony today is S. 1658, a bill to authorize funds for the construction of a reconciliation place in Fort Pierre, SD. S. 1658 was introduced by Senator Daschle.

Reconciliation place is designed to house a new Sioux Nation tribal supreme court, a Native American economic development council, and an historical archive and display center.

In order for diverse peoples to co-exist peacefully in any society, there must be a mutual understanding of the history and economic opportunities and development as well as a fair and effective system of justice.

These are some of the objectives that this measure seeks to achieve, and I commend Senator Daschle for his leadership in this area.



# STATEMENT OF SENATOR TIM JOHNSON

Senate Committee on Indian Affairs  
Hearing on

## S. 1148 the Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act

May 17, 2000

Mr. Chairman, Vice Chairman, and Members of the Committee, I would like to thank you for the opportunity to address the committee on S. 1148, Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act. I am pleased to join with my good friend and colleague from South Dakota, Senate Minority Leader Tom Daschle as a cosponsor of this legislation. This extremely important issue is the highest priority for the Yankton Sioux tribe and will have a positive and lasting impact on the Yankton reservation community and the entire state of South Dakota. I have worked closely with the Indian Affairs Committee to insure that this legislation protects the future interests of tribal members, and I am pleased that the bill reported by the Committee reflects these concerns. I am committed to seeing that the bill receive strong Senate support, and look forward to working with my colleagues to ensure that the bill moves forward for approval by the full Senate.

The Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act would establish a trust fund within the Department of the Treasury for the development of certain tribal infrastructure projects for the Yankton Sioux Tribe and Santee Sioux Tribe as compensation for lands lost to federal public works projects. The trust fund would be capitalized from a small percentage of hydropower revenues and would be over \$34 million. Independent research has concluded that the economic loss to the tribe justifies such a compensation fund. The tribe would then receive the interest from the fund to be used according to a development plan based on legislation previously passed by Congress, and prepared in conjunction with the Bureau of Indian Affairs and the Indian Health Service.

This type of funding mechanism has seen unanimous support in the Congress though recent passage of the Cheyenne River and Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act as well as the has Crow Creek legislation passed last Congress. Precedent for these infrastructure development trust funds capitalized though hydro-power revenue was established with the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act of 1992, which set up a recovery fund financed entirely from a percentage of Pick-Sloan power revenues to compensate the tribes for lands lost to Pick-Sloan.

I believe it is important for the Senate to understand the historic context of this proposed compensation. As you may know, the Flood Control Act of 1944 created five massive earthen dams along the Missouri River. Known as the Pick-Sloan Plan, this public works project has since provided much-needed flood control, irrigation, and hydropower for communities along the Missouri. Four of the Pick-Sloan dams are located in South Dakota and the benefits of the project have proven indispensable to the people of my state.

Unfortunately, construction of the dams was severely detrimental to economic and agricultural development for several of South Dakota's tribes, including the Yankton Sioux and Santee Sioux Tribes. Over 4,200 acres of the two tribes' most fertile and productive land, the basis for the tribal economy, were inundated.

The Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund

**Statement of Senator Tim Johnson**  
**May 17, 2000**  
**Page 2**

Act will enable the Yankton Sioux Tribe and Santee Sioux Tribe to address and improve their infrastructure and will provide the needed resources for further economic development within the reservation communities. However, the damage caused by the Pick-Sloan projects touched every aspect of life in South Dakota, on and off reservation. The economic development goal targeted in this approach is a pressing issue for surrounding communities off reservation as well, because every effort toward healthy local economies in rural South Dakota resonates throughout the state.

Mr. Chairman, the tribes in my state experience some of the most extreme poverty and unemployment in this country. Under the current Chairman, Madonna Archambeau, the Yankton Sioux Tribe has been a leader in economic development initiatives within the reservation community and I believe this bill will reinforce and further the economic development successes of the tribe. I look forward to working with my colleagues on this important piece of legislation to the Yankton Sioux Tribe and nearby Santee Sioux Tribe, in Nebraska and I encourage swift Senate action on this bill.

## STATEMENT OF SENATOR TIM JOHNSON

Senate Committee on Indian Affairs  
Hearing on

## S. 1658, the Wakpa Sica Reconciliation Place Act

May 17, 2000

Mr. Chairman, Vice Chairman, and Members of the Committee, I am pleased to join with my good friend and colleague from South Dakota, Senate Democratic Leader Tom Daschle, as a cosponsor of the Wakpa Sica Reconciliation Place Act, which will establish the Wakpa Sica Reconciliation Place in Ft. Pierre, South Dakota. The Wakpa Sica Reconciliation Place would be an important cultural and interpretive center, in part to compliment the National Lewis and Clark Trail, but with the unique perspective of the Sioux tribes and the impact of the Lewis and Clark encounter on tribal culture and economics.

During the Lewis and Clark expedition, Captains Merriweather Lewis and William Clark anchored their river boats where the Wakpa Sica, or Bad River, flows into the Missouri. After four months of travel from St. Louis, history was made on September 24, 1804. The next day 44 men landed on the west bank of the Missouri and paraded under the United States flag.

These men then joined Chief Black Buffalo and braves from the Teton Sioux for council in the chief's buffalo skin lodge. This was a key and pivotal meeting between representatives of the great Sioux tribes and those of the United States of America. This meeting was less than amicable.

Throughout the rest of South Dakota's history the relationship between native peoples and non-natives has not been a peaceful one. Today we are still facing the challenging experience of working and living together side by side as evidenced by the United States Commission on Civil Rights recent report on race relations in South Dakota. I am proud of the South Dakotans who have set their differences aside and came together and created the Mni Wiconi water project, as just one example. There is a growing need for a Reconciliation Place.

The Reconciliation Place would occupy the site in which Captains Lewis and Clark, and the members of the tribes came together to meet for the first time—which is a fitting site to bring Indian and non-Indian peoples together. It is my hope that this center will bring people together to learn about the culture and the rich history this area of the United States holds. Through this understanding, it is my hope that we may be able to achieve better relations between Tribal and non-Tribal peoples.

This project is a cultural center which will serve as a home for Sioux law, history, culture and arts for the Lakota, Dakota, and Nakota peoples. It will also serve as a repository for Sioux historical documents, which are currently scattered throughout the West. Many Native people do not have access to these documents. With the construction of this facility the native people will be able to house these documents close to home. This will allow interested parties to research their rich past.

The Reconciliation Place will also be the home of the Sioux Nation Supreme Court. This will serve to be a stable legal setting to assist in achieving greater social and economic welfare in Indian Country. Increased legal stability will help promote business investment in the vast human resources that are situated on the reservations in my state. This will bring about more self sufficiency, and less reliance by tribes on the federal government. Similarly, the Native American Economic Development Council will be located in this same facility. This council will assist tribes

**Statement Senator Tim Johnson**  
**May 17, 2000**  
**Page 2**

and tribal members to provide opportunities for economic development. The council will assist in opening the doors to private investment and other resources that are designed to promote development and job creation.

Mr.Chairman, this focal point for Native American culture, law, and economic development assistance is desperately needed. It is apparent that there is a need to strengthen current, and build future understanding between Indian and non-Indian peoples, as well as promote the government-to-government relationship between the tribes and the United States. I urge swift Senate action on this legislation. I would like to thank the Committee for allowing me to testify, and I look forward to working with the Committee in the future on this and other issues.

**STATEMENT OF U.S. SENATOR TOM DASCHLE  
ON THE  
S. 1148, YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE  
DEVELOPMENT TRUST FUND ACT  
May 17, 2000**

Mr. Vice-Chairman, I would like to express my appreciation to you, Chairman Campbell and members of the Committee for allowing me to testify today. Last year, I introduced legislation to compensate the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for losses the tribes suffered when the Fort Randall and Gavins Point dams were constructed on the Missouri River over four decades ago. The legislation I am referring to is known as, S.1148, the Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act. I am pleased to say that I am the primary sponsor of this bill, which has been cosponsored by three of my colleagues, Senator Johnson, and Senators Kerrey and Hagel of Nebraska.

As a result of the construction of these dams, more than 3,259 acres of land owned by the Yankton Sioux Tribe was flooded or subsequently lost to erosion. Approximately 600 acres of land located near the Santee village and 400 acres on the Niobrara Island of the Santee Sioux Tribe Indian Reservation also was flooded. The flooding of these fertile lands struck a significant blow to the economies of these tribes, and the tribes have never adequately been compensated for that loss. Passage of this legislation will help compensate the tribes for their losses by providing the resources necessary to rebuild their infrastructure and their economy.

To appreciate fully the need for this legislation, it is important to understand the historic events that preceded its development. The Fort Randall and Gavins Point dams were constructed in South Dakota pursuant to the Flood Control Act (58 Stat. 887) of 1944. That legislation authorized implementation of the Missouri River Basin Pick-Sloan Plan for water development and flood control for downstream states.

The Fort Randall dam, which was an integral part of the Pick-Sloan project, initially flooded 2,851 acres of tribal land, forcing the relocation and resettlement of at least 20 families, including the traditional and self-sustaining community of White Swan, one of the four major settlement areas on the reservation. On other reservations, such as Crow Creek, Lower Brule, Cheyenne River, Standing Rock and Fort Berthold, communities affected by the Pick-Sloan dams were relocated to higher ground. In contrast, the White Swan community was completely dissolved and its residents dispersed to whatever areas they could settle and start again.

The bill I have introduced, S. 1148, is the latest in a series of laws that have been enacted in the 1990s to address similar claims by other tribes in South Dakota for losses caused by the Pick-Sloan dams. In 1992, Congress granted the Three Affiliated Tribes of Fort Berthold Reservation and the Standing Rock Sioux Tribe compensation for direct damages, including lost reservation infrastructure, relocation and resettlement expenses, the general rehabilitation of the tribes, and for unfulfilled government commitments regarding replacement facilities. In 1996 Congress enacted legislation compensating the Crow Creek tribe for its losses, while in 1997, legislation was enacted to compensate the Lower Brule and Cheyenne River tribes. The Yankton Sioux Tribe and Santee Sioux Tribe have not yet received fair compensation for their losses. Their

time has come.

Mr. Vice-Chairman, the flooding caused by the Pick-Sloan projects touched every aspect of life on the Yankton and Santee Sioux reservations, as large portions of their communities were forced to relocate wherever they could find shelter. Never were these effects fully considered when the federal government was acquiring these lands or designing the Pick-Sloan projects.

The Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act represents an important step in our continuing effort to compensate fairly the tribes of the Missouri River Basin for the sacrifices they made decades ago for the construction of the dams. Passage of this legislation not only will right a historic wrong, but in doing so it will improve the lives of Native Americans living on those reservations.

It has taken four decades for us to recognize the unfulfilled federal obligation to compensate the tribes for the effects of the dams. We cannot, of course, remake the lost lands that are now covered with water and return them to the tribes. We can, however, help provide the resources necessary to the tribe to improve the infrastructure on their reservations. This, in turn, will enhance opportunities for economic development that will benefit all members of the tribe. Now that we have reached this stage, the importance of passing this legislation as soon as possible cannot be stated too strongly.

I strongly and respectfully urge this Committee to approve this legislation this year. Providing compensation to the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska for past harm inflicted by the federal government is long overdue, and any further delay only compounds that harm. I look forward to working with this Committee to move this legislation forward.

This concludes my statement. I will be happy to answer any questions you may have. Thank you.

**STATEMENT OF SENATOR TOM DASCHLE  
ON THE  
S. 1658, WAKPA SICA RECONCILIATION PLACE ACT  
May 17, 2000**

Mr. Vice-Chairman, I would like to express my appreciation to you, Chairman Campbell and members of the Committee for allowing me to testify this afternoon on legislation that I introduced to establish the Wakpa Sica Reconciliation Place. A few years ago, I received a letter from all nine tribal chairmen in South Dakota asking that I help establish a Sioux Nation Supreme Court. I would like to ask that this letter be incorporated as part of my testimony for the record. That original effort has grown to include a Historical Archive and Display Center, a Sioux Nation Supreme Court and a Native American Economic Development Council.

The Reconciliation Place will enhance the knowledge and understanding of the history of Native Americans by displaying and interpreting the history, art, and culture of the tribes of this region. It will also provide an important repository for the Sioux Nation history and the family histories for members of tribes, and other important historical documents. The majority of historic documents and archives for this region are kept in government facilities that are scattered across the West and are almost inaccessible to the people of this area.

Another important aspect of the Reconciliation Place will be to establish a Native American Economic Development Council. The council will assist tribal governments and individuals in promoting the growth of economies on the reservations and surrounding communities. It will raise funds from private sources to match federal assistance and provide grants, loans, scholarships, and technical assistance to tribes and their members to help generate new jobs.

Finally, the Reconciliation Place will house the Sioux Nation Tribal Supreme Court. The court will bring a sense of stability to reservations, so that investors develop a greater degree of certainty and confidence for their investments. Strengthening tribal court systems will ultimately provide a greater opportunity for tribes to develop the infrastructure that is needed to create more jobs on reservations.

The strength of the Reconciliation Place lies in its diversity of purpose. The Reconciliation Place will have many funding sources and support many purposes. Each agency mentioned in the bill will assist in providing funding and technical assistance to the tribes and tribal members through the Reconciliation Place. This assistance will not diminish the government-to-government policy established by the United States, but instead, it will provide a focal point for government and private organizations to expand their ability to help in Indian Country.

You will hear testimony today from an array of supportive witnesses from South Dakota, including Governor Bill Janklow and Lower Brule Sioux Tribal Chairman Mike Jandreau, of the need for the Wakpa Sica Reconciliation Place.

I look forward to working with you, Mr. Vice-Chairman, and the other members of this Committee to move this legislation forward. I respectfully urge this Committee to recommend the approval and passage of S. 1658, the Wakpa Sica Reconciliation Place this year.

This concludes my statement. I will be happy to answer any questions you may have. Thank you.

MARCH, 1998

TO: WAKPA SICA HISTORICAL SOCIETY:  
BOARD OF DIRECTORS:

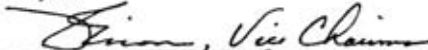

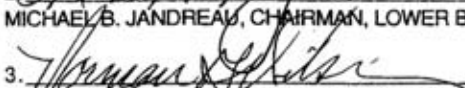

Ladies & Gentlemen;

In my years of experience as a Tribal Leader, I have encountered few projects that hold as much promise for building understanding between Tribal and non-Tribal people as the Wakpa Sica Reconciliation Center project.

Lakota, Dakota and Nakota Sioux people in North Dakota, South Dakota and Nebraska are the third largest Indian population in the nation and our reservations are within easy driving distance of the Reconciliation Center project site. The Reconciliation Center will include a theater, repatriation area, Tribal court judges' chambers, gift shop, museum area, story circle, educational center, genealogical center, Law library and staff offices.

As Tribal Chairman, I would like to extend my endorsement as a member of the United Sioux Organization.

TRIBAL CHAIRMAN SIGNATURES: We the undersigned elected leadership are representative of our Indian Reservations do hereby support this Wakpa Sica Project.

1.   
CHARLIE MURPHY, CHAIRMAN, STANDING ROCK SIOUX RESERVATION.
2.   
MICHAEL B. JANDREAU, CHAIRMAN, LOWER BRULE SIOUX RESERVATION.
3.   
NORM WILSON, CHAIRMAN, ROSEBUD SIOUX RESERVATION.
4.   
STEVE COURNOYER, CHAIRMAN, YANTON SIOUX RESERVATION.



5. Mura Pearson  
MURA PEARSON, CHAIRPERSON, SPIRIT LAKE SIOUX RESERVATION.
6. John W. Steele  
JOHN STEELE, CHAIRMAN, OGLALA SIOUX RESERVATION.
7. Richard B. Allen  
RICHARD ALLEN, CHAIRMAN, FLANDREAU SANTEE SIOUX RESERVATION.
8. Arthur Denny  
ARTHUR DENNY, CHAIRMAN, SANTEE SIOUX RESERVATION.
9. L. J. Felt for VICE-Chairman  
DUANE BIG EAGLE, CHAIRMAN, CROW CREEK SIOUX RESERVATION.
10. Andrew Grey  
ANDREW GREY, Sr., CHAIRMAN, SISSETON WAHPETON SIOUX RESERVATION.

**STATEMENT OF MADONNA ARCHAMBEAU, CHAIRWOMAN OF THE  
YANKTON SIOUX TRIBE, IN SUPPORT OF S. 1148  
MAY 17, 2000**

Mr. Chairman and members of the Indian Affairs Committee, my name is Madonna Archambeau, and I serve as the elected tribal Chairwoman of the Yankton Sioux Tribe. Our land is located in southeastern South Dakota. The Missouri River borders the reservation's southern boundary.

On behalf of the Yankton Sioux tribal membership, I would like to express my appreciation to you and the committee members for consideration of S. 1148, the Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act. The Yankton tribe, through its representatives, has worked closely with Senator Daschle's office for several years on this bill. Also, we have worked with the offices of Senator Tim Johnson, Senator Bob Kerrey, and Senator Chuck Hagel, the cosponsors to this legislation. We are grateful for their support and their staffs' guidance during this process.

#### BACKGROUND

Our reservation was established by the Treaty of 1858 which provided our people with 430,405 acres of land along the Missouri River. As time passed our reservation was diminished by the Act of August 15, 1894, which opened up our reservation to non-Indian settlement. By the 1950's, when the Fort Randall dam was constructed, only 44,938 acres of Indian land remained in federal trust status.

In 1944, the United States Congress enacted the Flood Control Act which authorized the construction of five dams along the Missouri River known as the Pick-Sloan Program. The primary purpose of the dams and reservoirs was flood control downstream. Other purposes were navigation, hydropower generation, providing water supplies, and recreation.

The impact of the Pick-Sloan program was devastating to all the Missouri River tribes including the Yankton Sioux Tribe. The Fort Randall dam and reservoir inundated a large portion of the Yankton Sioux reservations' bottom lands and rich productive agricultural lands. The Fort Randall project flooded 2,851 acres of Indian trust land within the Yankton Sioux reservation and required the relocation and resettlement of at least 20 families which was approximately 8 percent of the resident tribal population. Over the past fifty years, the tribe lost an additional 408 acres to stream bank erosion.

The Missouri River bottom lands provided a traditional way of life for the Yankton Sioux that is now virtually lost. The bottom lands provided an abundance of game and plants for traditional food, plants for ceremonial and medicinal purposes, and plenty of trees for lumber and fuel. In addition to the loss of the bottom lands, the tribe lost acres and acres of productive agricultural land.

## INUNDATION OF THE COMMUNITY OF WHITE SWAN

The waters of the Missouri River completely inundated the traditional and self-sustaining community of White Swan, one of the tribe's major settlement areas. The White Swan families raised various livestock which took shelter in the timbered bottom lands or out buildings. The White Swan families sold surplus milk and eggs in the towns of Lake Andes or Wagner. The money received was generally used to purchase needed staples that were not cultivated from the rich soil in and around the community of White Swan. The community was very close knit and the families helped each other in many ways.

While it was the practice of the United States to relocate flooded Indian communities flooded by the Pick-Sloan program to higher ground, the community of White Swan was not relocated or reestablished elsewhere. The White Swan families were simply dispersed elsewhere and the community was never replaced.

## CONDEMNATION PROCEEDINGS

Neither the Flood Control Act of 1944 nor any subsequent acts of congress specifically authorized the U. S. Army Corps of Engineers or the Bureau of Reclamation to condemn Sioux tribal land for Pick-Sloan projects. Unfortunately, the condemnation of Yankton Sioux tribal land was not challenged for a host of reasons.

The condemnation proceedings in U.S. District Court resulted in settlements that did not provide adequate compensation to the Yankton Sioux Tribe. The tribe did not receive compensation for direct damages but rather a compensation for the appraised value of their property. The condemnation proceedings did not take into account the large proportion of productive agricultural land. Further, the settlement did not account for the inflation of property values between the time of taking and the time of settlement which was several years later. The average settlement payment on other Indian reservations whose land was taken by acts of congress was approximately \$16,680 per family according to research documents, while the Yankton Sioux Tribe received \$5,605 per family as a settlement for the land taken by the United States.

## THE IMPORTANCE OF S. 1148 TO THE YANKTON SIOUX TRIBE

S. 1148 provides that the Yankton Sioux Tribe, as compensation for past inequities, will receive annual interest payments from a \$34.3 million trust fund account in the U.S. Treasury. These funds will be used by the tribe for programs outlined in a tribal plan that will be developed by the tribal council with approval from the tribal membership. The funds will be used to promote greatly needed economic development on our Indian lands. The funds will be utilized to build and improve our infrastructure. And the funds will be used to further education, health, recreation and the social welfare needs of our people.

The precedent is well established. Congress enacted equitable compensation settlement acts for the Standing Rock Sioux Tribe, Three Affiliated Tribes, Crow Creek Sioux Tribe and

the Lower Brule Sioux Tribe. The Senate of the 106<sup>th</sup> Congress passed legislation to equitably compensate the Cheyenne River Sioux Tribe for its taken land. The funding amount for the individual tribes vary due to the unique losses of each tribe. However, the funding mechanism is the same in all act and bills. Each act and bill provides a trust fund with the interest paid to the tribe to be used for economic development, education, culture and social programs.

#### CONCLUSION

The Yankton Sioux Tribe, through its Business and Claims Committee, has worked on this legislation for several years. S. 1148 has been developed to provide equitable compensation for the taking of land and as an equitable settlement for the tribe's losses. S. 1148 is based on recent congressional precedent to provide compensation to Missouri River tribes impacted by Pick Sloan.

Many of our tribal elders who experienced first hand the taking of tribal land and the removal have passed on. It has been long enough for a just and equitable resolution to the devastating impacts of the Pick-Sloan program on our tribe.

I respectfully urge the members of the Senate Indian Affairs Committee to report S. 1148 out of the committee with a recommendation that it pass the full Senate.

Statement of Arthur "Butch" Denny, Chairman of the Santee Sioux Tribe of Nebraska  
in support of  
S. 1148, Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska  
Development Trust Fund Act.

May 17, 2000

Mr. Chairman and members of the Indian Affairs Committee, I am Chairman Butch Denny of the Santee Sioux Tribe of Nebraska. The Santee Indian Reservation is located in north east Nebraska. The Missouri River borders our reservation's northern boundary. I have attached a map to this statement so you will have a physical picture of the places we are discussing here today.

On behalf of the Santee tribal membership, I am pleased to appear before this committee to provide some views from the perspective of the Santee Sioux tribe in support of S. 1148. We appreciate the committee's consideration of this bill.

Our tribe, along with the Yankton Sioux tribe, through our representatives have worked closely with Senator Daschle's office and the offices of the cosponsors to S. 1148: Senators Tim Johnson, Bob Kerrey and Chuck Hagel. We are grateful for their support and the assistance of their staff for their guidance in this legislative process.

The Santee Sioux Reservation was established as a permanent home for remnants of six Santee Sioux bands driven out of Minnesota following what is known as the "Sioux Uprising of 1862." Our reservation was established by Executive Order signed by President Andrew Johnson on February 27, 1866.

In 1944, the Congress enacted the Flood Control Act (58 Stat. 887), which authorized implementation of the Pick-Sloan Plan for water development in the Missouri River Basin. This plan included the construction of five main-stem dams along the Missouri River. Project purposes included flood control downstream, navigation, irrigation, the generation of hydropower, the provision of improved water supplies, and enhanced recreation. The U.S. Army Corps of Engineers, which constructed and operate the dams, estimates the projects' overall contribution to the national economy averages approximately \$1.3 billion.

The Gavins Point dam, which is the subject of my testimony, is erected between Yankton County, South Dakota and Knox County, Nebraska. Gavins Point dam is the farthest downstream and the smallest of the six Missouri River dams.

The Gavins Point project inundated 593 acres of land with the Santee Sioux Indian Reservation. This represents approximately 8.5 percent of the reservations total land base. Of the 593 acres, 201 acres was valuable crop land.

The Santee Sioux lands taken for the Gavins Point project were located just

below the main settlement area of the Indian village of Santee. The bottom land was used by our tribal members for hunting, shelters for livestock, and the trees for lumber and fuel. The bottom lands provided a variety of plants used for ceremonial and medicinal purposes. The land taken also included productive agriculture land and pasture land. The Gavins Point project flooded a tribal farm which included a cattle and hog barn, grazing land, and fields that were used for growing hay, oats and corn.

That of course is now history; the tribal land taken is now underwater and that way of life is now past. Our tribe is small and our land base is small, but what was taken was great and how it was taken was unjust.

The Flood Control Act of 1944, nor any subsequent acts of congress specifically authorized the U.S. Army Corps of Engineers or the Bureau of Reclamation to condemn Sioux tribal land for the Pick-Sloan dam projects. But our land was condemned and taken in U.S. District Court nevertheless.

The condemnation proceedings resulted in compensation for taken land that was far less in value than that of other Missouri River tribes whose lands were taken by acts of congress. The Court did not compensate the tribe for its direct damages but provided payment for the appraised value of the land. Also, it was several years between the time the tribe received any payment and the time the land was appraised. The initial settlement did not take into account the inflation of property values between that period.

The lands affected by the Pick-Sloan program were, by and large, Indian lands. The damage to each reservation was unique, depending on the acreage lost, the number of tribal members living in the taking area, and the value of the resources located in the taking area. However, the result was the same at each reservation. Tribal communities and economies were damaged or completely destroyed by the dam projects.

In May of 1985, the Secretary of the Interior established the Joint Tribal Advisory Committee (JTAC) to assess the impacts of the Garrison and Oahe Dams on the Three Affiliated Tribes and the Standing Rock Sioux Tribe. Based on the findings and recommendations of JTAC, Congress enacted legislation to equitably compensate those tribes for their losses from Pick-Sloan.

In 1992, the Congress enacted legislation acknowledging that the U.S. government did not justly compensate the tribes at Fort Berthold and Standing Rock when it acquired their lands and that the tribes were entitled to additional compensation. PL 102-575, title XXXV, the *Three Affiliated Sioux Tribes and Standing Rock Sioux Tribes Equitable Compensation Act* provided development trust funds for these two reservations.

Congress again acknowledged that the Indian tribes were not adequately

compensated for their losses under the Pick-Sloan Plan. In 1996, the Congress enacted PL 104-223, the *Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act* which provides for a development trust fund for the Crow Creek tribe for losses due to the construction of the Ft. Randall and Big Bend dams. In 1997, the Congress enacted PL 105-132, the *Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act*, which provides a development trust fund for the Lower Brule Sioux Tribe for similar losses.

By the enactment of these development trust fund acts, the Congress has indicated its willingness to settle the tribal claims by providing additional and equitable compensation in the form of development trust funds.

One cannot measure in cost the loss of tribal tradition or the loss of tribal life along a free flowing river, so we must look to the cost of what can be measured. The tribe lost a total of 1,007 acres to the Gavins Point dam and reservoir.

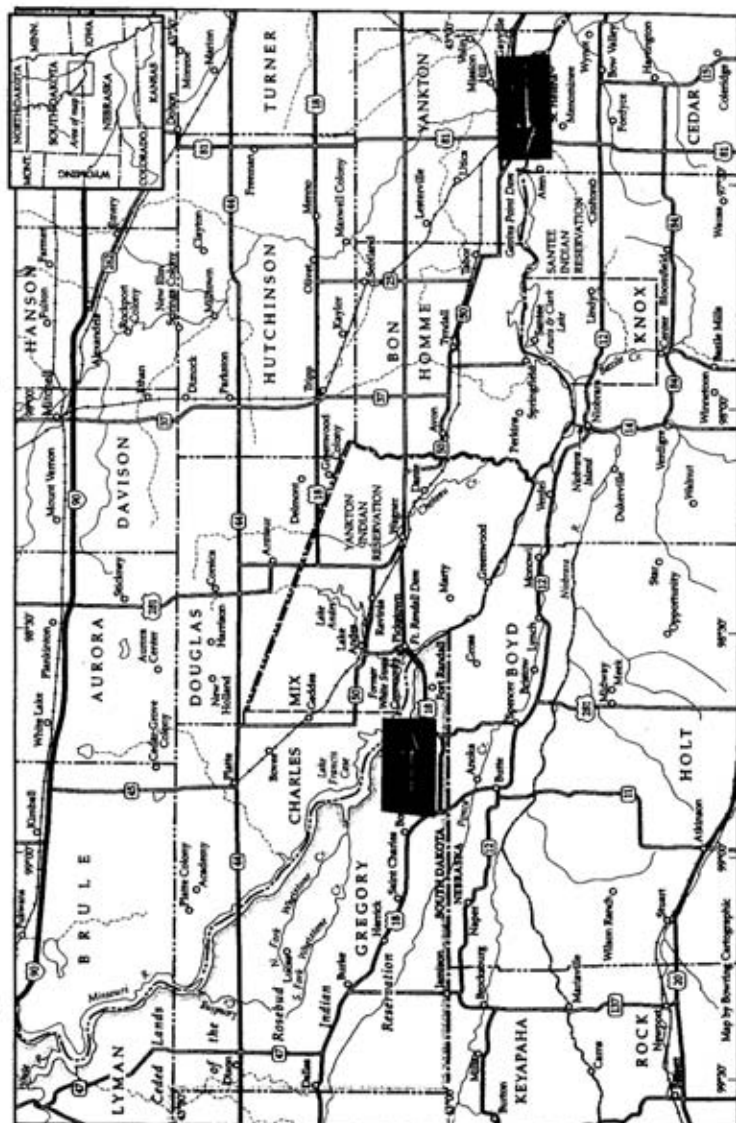
S. 1148 provides that the Santee Sioux Tribe will receive annual interest payment from an \$8.1 trust fund established in the U.S. Treasury. The annual interest payments are to be used by the tribe according to a tribal spending plan developed by the tribal council with approval from tribal members.

The Santee settlement claim is minimal in comparison to the others settlements enacted before us. However, the annual interest payment will greatly assist our tribe with programs addressing the needs of economic development and social programs.

The Santee has worked several years on the development of this legislation. With the sponsorship of Senator Tom Daschle in the Senate and Congressman Bill Barrett in the House we are hopeful that this legislation will be enacted this year.

I want to again thank the committee for considering this bill. S. 1148 is very important to the Santee Sioux Tribe.

Area Map of Yankton and Santee Sioux Lands Affected by Pick-Sloan Dams





**UNITED STATES SENATE  
COMMITTEE ON INDIAN AFFAIRS  
WASHINGTON, D.C.**

**TESTIMONY ON SENATE BILL 1658  
MAY 17, 2000**

**THE CONSTRUCTION OF THE RECONCILIATION PLACE**

Mr. Chairman, Senator Ben Nighthorse Campbell, and members of this distinguished United States Senate Committee on Indian Affairs. My name is Michael B. Jandreau, Chairman of the Lower Brule Sioux Tribe, which is located on the west side of the Missouri River in the vicinity of the Big Bend Dam. I have been Tribal Chairman for some twenty-six years and Tribal politics has been interesting and gratifying in many ways.

I am in support of Senate Bill 1658 introduced by our own South Dakota Senator, Tom Daschle. This legislation is for the construction of the Reconciliation Place to be built on the Fort Pierre, South Dakota side of the Missouri River.

The Lower Brule Sioux Tribe has been working to develop some of our historical sites along the Missouri River. A while back, the tribe obtained a grant from the federal government, such as the Department of Interior, involving the Lewis and Clark Trails Program for the centennial anniversary celebration in 2004. We have hired consultants with this grant program with background in Parks Planning and Trails Development. All this planning has helped our Tribal Council to understand the importance of preparing for the future of our reservation and tourism development for our tribe.

So now, we are excited about Senator Daschle's legislation, SB 1658. This bill includes an assortment of areas, such as the establishment of the Sioux Nation Supreme Court. I realize that this is a tremendous undertaking for the Sioux Nation, but it must be done because with my experience with the Tribal Court System, it needs help. As the Tribal Court caseload has increased over the years, the Lower Brule Sioux Tribe has joined with other tribes in trying to establish a Tribal Appellate Court System. We need a higher court to which our Tribal Court judges can refer complex cases because of their effect on other tribes regardless of how the legal circumstances are viewed. It is time for other

Indian reservation court systems including the tribes, to come together and discuss the Sioux Nation Supreme Court System. We must work to improve the standards of our tribal courts as our tribal membership is growing and the tribes must be able to deal with the changes. The tribes must legislate better tribal ordinances and tribal codes for the tribal courts to ensure that our Indian people receive a fair deal. There are always problems with law enforcement and the people are always going to complain. On some occasions, the South Dakota Highway Patrol has been profiling the Lower Brule Sioux Reservation or they have been holding sobriety checks on the perimeters of our Sioux reservations without contacting our tribal police or tribal authorities. There needs to be improved communication between tribal and state law enforcement to improve relations between our governments. That is the reason that establishment of the Sioux Nation Supreme Court is so very important to all the people in the state of South Dakota. The Wakpa Sica Historical Society has received a small grant from the Department of Justice to study the feasibility of establishing a Sioux Nation Supreme Court. Right now, Indian people are not being tried by their peers; they are instead being tried by courts in Rapid City, Sioux Falls, and other towns around the state of South Dakota. We read every day in the newspapers about our Indian people being sent to prison after receiving the maximum sentences allowed under state and federal law. The importance of a Sioux Nation Supreme Court is vital to our existence as sovereign tribal nations because in order to continue development, we must make changes in our laws to meet those changes.

In Senate Bill 1658, the Reconciliation Place has many facets included in it that are historical in nature. The Sioux Indians are a very intricate part of plains history that will be displayed in the museum, such as artifacts, clothing, old tools, blankets, moccasins from different tribes, war clubs, dance sticks, Indian women buckskin dresses, men's buckskin outfits, ghost shirts from our ancestors, buffalo bone soup utensils, wacipi dance outfits, pictures of old timers, maps of Indian trails, and many other Indian artifacts that will be available from the tribes. This will be the first tribal museum in the country and the Indian people will have an opportunity to provide input on how the heritage of the Sioux people is presented.

This museum will be a real tribute to the Lakota, Dakota, and Nakota culture. The Sioux people have been given little opportunity to be involved in a project of this magnitude because our people have been held back by the dominant society. We are not a people to be feared or even mistreated. Our people are good people with a big heart that will keep on giving. Tourists will find many interesting parts to the museum because the tribes will take great patience and care to help the curators of the museum plan the displays of our Indian ancestors. This will be a first class museum for the traveling tourist to see while making their way across the plains to the Black Hills.

The theater is an important part of the cultural complex because it will provide an opportunity for our people to speak to the general public about their

history. Many Lakota, Dakota, and Nakota speaking people can demonstrate on stage how the Sioux language was used in our culture. There will be many lectures discussing Indian history and other professional people presenting their views of how American history developed on the Great Plains. There will also be presented, other kinds of Indian Arts such as Indian plays that will be of general interest to the public.

The Story Circle will be mostly for children of all races and cultures. There will be presenters from the Indian culture who have an education in specific areas that will be available in different dances and others who can demonstrate their skills in singing. We will want the singers drumming their songs to all the children so they will know the words behind the songs. Demonstrations of all types will be available by Indian artists, who will provide Indian storytelling to the children. Of course, we will want the spiritual Indian leaders to explain why prayers are so important to the cultures.

The Repatriation Center is a vital part of how the Sioux Nation lived and survived on the Great Plains. There are artifacts from the Sioux people that were taken to all parts of the world to be put on display. Museums in Europe have many types of Indian artifacts and other items stored in their homes that we may never see again. It will be difficult to obtain all those items without help from the federal government, but everything takes time to accomplish. The tribes will have an opportunity to decide where some of these items belong and which tribe has ownership for repatriation back to the reservation. Many of these items are ceremonial in nature and tribes must take great pains to sort them out. Of course, Indian artifacts readily identifiable must go to the tribe directly because we want this Repatriation Center to be a model workplace that coordinates with other tribes. The tribes will use the Repatriation Center to meet and discuss the problems of how to discover where these items belong. The storage place for all these items will be temperature controlled to protect the artifacts from any damage. The Sioux Nation does not have an organization to deal with the repatriation of artifacts, but they are in agreement with each of the tribes to work together.

The Genealogical Center is a place where the Indian people can come to research their family tree and find out their family background. We have Indian as well as non-Indian people trying to discover their family histories because individuals from Europe came to this country and married Indian women. The children of those parents went on to marry back into their own race and all ties to the Indian people were lost. Many people from all types of communities are interested in the development of the Genealogical Center because just maybe, they are in some way related to the Sioux people. Other individuals are looking to find out if they can be enrolled in some tribe because their ancestor was married to an Indian person. There are so many interesting opportunities available through the Reconciliation Place legislation that it will take a good staff to meet all the demands of the general public.

The Gift Shop has many opportunities for our Indian people trying to market their arts and crafts to the general public touring the country. Every item will be labeled Indian-made because there are foreign made items on the market. Every Sioux tribe will be able to display their items for sale at the gift shop. We want our Indian people to have the same opportunity as everyone else to make a living.

Meeting rooms are important to Indian Country because we have so many meetings, conferences, training sessions, planning meetings, and other kinds of developmental projects going on with the tribes. Many times tribes will convene special meetings to work out problems away from the distractions on the reservations.

Office space for the Wakpa Sica Historical Society is necessary to keep abreast of all their activities around the state. They will have membership drives to promote the organization and promotional activities.

The United Sioux Tribes of South Dakota Development Corporation, Inc. will have office space to continue their work with all the tribes in North Dakota, South Dakota, and Nebraska. Our purpose is economic development although, we are involved to some extent with Indian Education, Planning, Health, Employment Assistance, Training, and Contracting.

Senate Bill 1658 includes the Economic Development Council in its legislation and this is an area that is important to the growth and development of the Indian tribes. Sometime ago, the Bureau of Indian Affairs promised the tribes 6 Economic Development Centers around the country and of course, we never saw anything. The Sioux were promised an Economic Development Center to be established in Rapid City, South Dakota. The resources are necessary to learn new things and put together business packages for individuals trying to establish a business.

I would like to thank the United States Senate Indian Affairs Committee for listening to my comments today.



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## SOUTH DAKOTA



## Testimony

To: U.S. Senate Committee on Indian Affairs  
S. 1658  
May 17, 2000

Mr. Chairman, thank you for the privilege of testifying before you on a project that has been long time in planning. The Wakpa Sica Historical Society has envisioned this approach more than a dozen years and finally, ten years ago officially adopted as a project to bring Indian people and non-Indian neighbors together in a working relationship.

I would like to introduce myself so you know where I am coming from. I am an enrolled member, a full-blood of the Rosebud Sioux Tribe. I was born in Mellette County. Since my parents didn't have a car, I was born at home. My paternal grandmother was the midwife, who introduced me to this earth and named me Leading White Buffalo. I spoke only Lakota until I went to school when I was seven years old.

I am a product of government day school and boarding schools. I went to a public school the first two years of high school. I was fortunate to get an athletic scholarship the last three years of college. I learned to run long distances by running away from Rosebud Boarding School twice. I finally stayed because my grandmother talked to me about continuing school so that I could talk for them and protect them. I spent 19 years of my life going to school.

I am proud to say that I served my country during the Korean Conflict, like many other Sioux warriors. I worked as a full time Episcopal Priest for 12 years in South Dakota. I was Chairman of the Rosebud Sioux Tribe for six years. I taught at the University of South Dakota for two years and worked for Indian Health Service for fourteen years. I did retire for three years and then came back to work for the State of South Dakota as Commissioner of Tribal Government Relations for Governor Janklow, since 1997.

Recently, I became a member of the Wakpa Sica Historical Society because I support any efforts to bring people together in a working relationship. This group is attempting to do this by creating a place in a friendly, non-confrontational atmosphere, where there is involvement and exchange of ideas and proposed actions.

*"Hečel lena oyate kin nipi kte"*  
(That These People May Live)

The Sioux people believe that Great Spirit God afforded them a certain area on grandmother earth where they may live with all their relatives in harmony and peace. Whenever part of them be it their remains or anything of value and meaning is left behind or taken away, it must be returned to a place of refuge where it is safe from other area of place, because it is not a part of that place/people. Therefore, I believe fully in repatriation that must be done. Some of the Sioux Tribes have already started. However, there are items that cannot be tribal specific, and therefore, must be kept in a place designated by the Sioux Tribes.

During my tenure (six years) as the Chairman of the Rosebud Sioux Tribe, the council and I were busy developing the economic base by bringing small industry to our reservation. We expanded our electronics plant from twenty employees to ninety-eight employees. At the time we were producing cable harnesses and printed circuits. We established a furniture factory by joint venturing with a St. Louis, Missouri firm. We had three shifts of eighty people. We expanded a pottery plant of some twenty employees. Our welding shop had sixteen. A picture reproduction plant had ten people.

To be successful we hired outside expertise when needed. We established boards to oversee the training and hiring of people. We insulated the administration of our plants from the tribal council. All of the above was commendable except we were so busy we didn't establish the commercial codes to stabilize our economy. The next administration replaced even the managers and fired many supervisors.

Part of the problem of economic development on the reservation is an unstable government infrastructure. Most of our tribes in South Dakota do not have separation of powers in their government. The Bureau of Indian Affairs when it proposed a model constitution for consideration to the IRA Tribes, gave authority to the tribal councils to oversee tribal administration and the judicial systems as well.

I am in favor of development of a tribal Supreme Court that will research and develop model codes that are cognizant of tribal culture and practice of resolving disputes, creating a peaceful environment in Indian societies.

Our Sioux society traditionally was intent on helping peace and creating a harmonious atmosphere. Restitution was a key factor in righting a wrongdoing. For any injury there is a solution for healing. Injured and injuries were brought together by elders to cause understanding and how to remedy the situation. In the most serious infractions like murder, of course, punishment would be considered.

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Today in our court systems where we bring people together to fight there is no winner. Both sides lose because of hurt feelings that sometimes are never forgotten. Today the message we give is if you have money you can protect yourself and even take advantage of others. At least if you are related to a councilperson or better yet the Chairperson you have a chance in court. If the council or Chairman cannot influence the decision there is always the chance to get the judge fired by the council since he was hired by the council.

I believe the Supreme Court and its program, research and education can encourage separation of powers, or devise a way in which the court/judicial system can be independent and impartial. I would hope to see the issue of sovereignty is addressed in the future so that industries and investors will be assured of a fair settlement should there be misunderstandings. Investors need to be assured that their investment is protected from personal and political decisions.

I respectfully request your favorable action on S.1658. Thank you for your time and attention to the Wakpa Sica Project, "The Reconciliation Place" and Sioux Nation Supreme Court.

Respectfully Submitted,

Webster Two Hawk  
Commissioner



William V. Fischer  
President

P.O. Box 1178 • Pierre, SD 57501-1178

605-224-9233

Mr. Chairman and Members of the Committee,

Thank you for the privilege of presenting testimony in support of S.1658, legislation authorizing construction of The Reconciliation Place in Fort Pierre, South Dakota, to serve tribal people and the general public.

I am Bill Fischer, a third generation South Dakotan. My grandfather homesteaded in Central South Dakota in 1884. My family has dealt with tribal people since then, primarily from the stand point of a general store and banking. I currently am President of the American State Bank in Pierre, South Dakota, an \$80,000,000 bank primarily devoted to agriculture. For years we have dealt with tribes and tribal people, both as a depository and a source of lendable funds.

For nearly 14 years I have been involved with this project supporting the diligent and sensitive leadership of our chairman, Clarence Mortenson, an enrolled member of the Cheyenne River Sioux Tribe.

The other key leader of this effort is Mike Jandreau, Chairman of the Lower Brule Sioux Tribe. His notable leadership ability is evidenced by his role as Chairman at Lower Brule for several years.

These two gentlemen and other involved tribal leaders have brought cultural sensitivity to this project. That is an important point.

A second important point is the significant local support for this project as evidenced by statement of support from:

Senator Daschle  
Senator Tim Johnson  
Congressman John Thune  
Governor Janklow  
former Governor Mikkelsen  
the State Bar Association  
the State Chamber of Commerce  
the State Retailers Association  
the Mayors of the cities of Ft. Pierre and Pierre communities  
the County Commissioners of the relevant local counties



Notable, too, is the fact that nearly 80 acres of land have been acquired from private individuals and public entities to become a site for this Reconciliation Place, which property is owned by the Wakpa Sica Historical Society, Inc., the nonprofit organization that sponsors this inclusive project.

It is located on the west bank of the Missouri River, at the site where Lewis and Clark met Sioux Tribal leaders in 1804, and artist George Catlin conceived the idea for the establishment of National Park Service. It is also within sight of the Verendrye Monument where in 1743 three French explorers buried a lead tablet to claim this region for France – that tablet still exists today. This site has always been a peaceful site and a significant place in the history of the Sioux Nation and interaction with explorers.

The six major thrusts of this project promise significant services for the Sioux Tribes of North Dakota, South Dakota and Nebraska, to the extent they choose to use those services. The point is that tribal participation's will be at the discretion of each tribe. Notably, leaders of ten of the eleven Sioux Tribes have gone on record in support of this project.

The need to upgrade, expand and extend support for **TRIBAL LEGAL SYSTEMS** is a key of this project. We are pleased to have the participation of the University of South Dakota Law School and the University of North Dakota Law School to help research needed legal improvements to aid those court systems. Establishment of a Sioux Nation Tribal Supreme Court can bring a disciplined commonality of reporting and interpretation that can build awareness and confidence of all persons involved in economic activities on reservations. We are committed to making this part of the project a system that all 11 tribal governments and their people can be proud of, is culturally sensitive, and offers alternative dispute resolution mechanisms, relevant to the culture. This result can improve the effectiveness of the economic development effort that is part of this bill.

Another key area of the project is the **LEWIS AND CLARK CENTER** to interpret the visit from the perspective of tribal people, as was noted in the June 1997 letter of Mr. Richard N. Williams, Manager of the Lewis and Clark National Historic Trail System of the Department of the Interior. This will be the only center from the Tribal standpoint on the entire Lewis and Clark Trail.

The establishment of a **REPATRIATION CENTER for the Sioux Nation**, to provide administrative and interpretive services, plus physical storage/transfer for sensitive cultural, spiritual and funerary objects is a need of growing urgency in the minds of Sioux Tribal leaders, especially for those whose exact origin has not been determined.

Another area that is to be addressed in the center is **SIoux NATIONAL ARCHIVES** – where tribal people can research their genealogy. This currently can only be done by travelling to St. Louis, Missouri, Denver, Colorado or Salt Lake City, Utah.

A world class **CULTURAL MUSEM** dedicated and exclusively to Sioux will be an additional significant part of the Reconciliation Place.

And finally, plans call for an area of this complex to be devoted to **NATIVE AMERICAN ECONOMIC DEVELOPMENT**. This is an especially important issue with the current unemployment exceeding 50 percent on most reservations.

The multiple missions of this project are essential, and offer profound promise to build reconciliation among all peoples. Our hope for reconciliation drives the leaders of this project to strive for reconciliation among peoples of this nation. Our sincere thanks to Senator Daschle and his staff for their help bringing our dreams to your attention and consideration.

Thank you for the privilege of testifying.

Respectfully submitted:

William V. Fischer

President

American State Bank

**UNITED STATES SENATE  
COMMITTEE ON INDIAN AFFAIRS  
WASHINGTON, D.C.**

**MAY 17, 2000**

**TESTIMONY ON SENATE BILL 1658**

**THE CONSTRUCTION OF THE RECONCILIATION PLACE**

Mr. Chairman, Senator Ben Nighthorse Campbell, and members of this distinguished United States Senate Committee on Indian Affairs. My name is Clarence W. Skye, the Executive Director of the United Sioux Tribes of South Dakota Development Corporation since 1970, except for 3 years in which I was employed by the federal government. I am honored to testify on Senate Bill 1658, calling for the establishment of the Wakpa Sica Reconciliation Place in Fort Pierre, South Dakota, where there is a wealth of Indian history and pioneer heritage on the Great Plains, and where the Missouri River divides the state and empties into the mighty Mississippi River.

This project is the Wakpa Sica Reconciliation Place that will be located on the banks of the Missouri River in the state of South Dakota, where the nomadic Teton people lived since the dawn of the white man in Europe. Many of us have forgotten what it is like to live in a tepee out on the windy plains or to live in a sod hut with no running water. We have so many conveniences today. The tourist traveling through the state can only imagine how the native peoples must have lived, hunting the buffalo for food on the grassy plains. The Sioux people are proud to have a first class cultural center constructed at Fort Pierre, South Dakota. The Wakpa Sica Reconciliation Place and Economic Development Center constructed here on the Great Plains and dedicated to the Sioux people's great past will be a landmark to their effort to hold their land. The Wakpa Sica Reconciliation Place is designed to be a structure to provide an education to anyone interested in the growth and development of our history. Included in Senate Bill 1658, is the Native American Development Council to assist the Sioux people in providing opportunities for business development on Indian reservations and urban Indian communities, wherever Indian people are located.

The non-Indian people need to know that our Indian people are out there working and raising families just like everyone else, but we cannot as long as there remain impediments to the Sioux people's progress in business. We need more Indian people in business around the state and in Indian Country. Mr. White Man still continues to think that Mr. Indian receives a welfare check each

month from the United States Government. The thinking in South Dakota is the same as it was in 1873, when the military tried to annihilate the Sioux people living on the plains.

The United Sioux Tribes of South Dakota Development Corporation was organized May 19, 1970, to resist state jurisdiction over Indian people and Indian lands and to improve the quality of life for Indian people in the state of South Dakota. The United Sioux Tribes of South Dakota Development Corporation has worked hard over the years to break the barriers among the non-Indian people so that our Indian men and women could seek and find employment with businesses in the private sector. The United Sioux Tribes of South Dakota Development Corporation is working jointly with bankers, businessmen, and other professionals, and through the Wakpa Sica Reconciliation Place, to educate the ignorant and find new ways to work together.

This great complex has several parts including; Judges Chambers, Law Library, Courtroom, Court Clerk Offices, a genealogical center to research family genealogy, a theater for student lectures, a story circle for children of all ages, a museum of Native American Art from the Great Plains, and a repatriation center for Indian people to decide where questionable funerary remains and artifacts of our ancestors should belong as only the Indian people can deal with the ceremonial articles of our ancestors and how the remains of our ancestors should be interred. There will be a gift shop for present day Native Americans to market their wares and other items to the tourists visiting the Wakpa Sica Reconciliation Place. The tourist will have an opportunity to visit the Native American culture and other cultural heritage groups that settled this great country. There are millions of dollars brought into the state of South Dakota and these tourist dollars should be shared with the Indian people. Right now, the state of South Dakota makes millions of dollars from many different businesses, but with the Native American industry from Indian people, the tax revenues should be shared with the Indian tribes. There will also be office space for the Wakpa Sica Historical Society and the United Sioux Tribes of South Dakota Development Corporation, as well as a wacipi dance arena for tribal pow wows as this is a way for the Sioux people to practice their culture and catch a glimmer of the past. There are many ceremonies that are conducted by the tribes, such as the Buffalo Dance, Deer Dance, Kettle Dance, and the Fallen Feather Dance that pertains to the veterans. The different tribes will have religious meetings at the wacipi dance arena, such as the Episcopal Church Convocation meetings where church issues are discussed among the parish people from each of the reservations. The parking area must have a gravel base, so people attending the meetings will not be getting stuck due to inclement weather. The interpretive paths will have different tribal designations and some explanations of each tribe.

Everyone is excited about this project and many questions were received about the project at the recent Great Sioux Nation Conference in Rapid City, South Dakota. The majority of the questions dealt with when the cultural and economic center would be constructed. In the early years of the United Sioux Tribes of South Dakota Development Corporation, the Sioux leaders would talk about a place where they could go to discuss the issues affecting the Indian

people. For many years, the Great Sioux Nation would come together on many items for discussions and relate information about their ancestors and different customs. The Sioux people are great on tradition, but not much history is written and this would be one of the places where there is an opportunity for Indian people to relate their knowledge to young people at the cultural center. The state, tribal, and federal law enforcement people can meet and discuss new methods of training and course work that could be used in the daily work of enforcing the law.

In the past, the Sioux tribes worked together to fight state jurisdiction and cooperatively defeated PL. 280 in the state in 1963. But now, it is more important to work with the state of South Dakota to provide more effective law enforcement on the reservations and around the state. The federal government must change their thinking about Indian people by building prisons on our Indian reservations and work with reservation law enforcement to make improvements in prison life. With the Sioux Nation Supreme Court, the tribes will have input in both state and federal court systems to improve the tribal court. Most Indian people that go through state and federal court systems are shanghaied non-stop to prison. The Indian people are not given a fair deal in the state and federal courts because we have had to report on the state highway patrol profiling Indian reservations at the Lower Brule, Rosebud, Pine Ridge, and Crow Creek reservations. We know there is institutional racism in our state as well as surrounding states. We know all these problems can be discussed at meetings between the state and the tribes through the Wakpa Sica Reconciliation Place. We must find other solutions to incarcerating people, because putting individuals away in some prison is not the answer. Law enforcement people must sit down with each other and develop some new methods to this growing problem. Presently, we have a Native American juvenile custody rate of 1,204 per 100,000. In comparison to non-Indians, our Native American juveniles are being locked up at 3 times the rate for non-Indians. There is discrimination in the court systems, but it must be handled properly and the Sioux Nation Supreme Court System would be able to handle those problems in conjunction with law enforcement officials.

There is so much Native American history in South Dakota that it will take years to interpret and decide which tribe has ownership over many of the cultural artifact that have been found. The Wakpa Sica Reconciliation Place will be a facility where young people can learn about Native Americans instead of the usual movies watched at local theatres concerning Indians. These same young people need to be better informed about Indian reservations and their style of life.

In 1989, the Bureau of Indian Affairs did a B.I.A./Tribal Task force on B.I.A. reorganization and in one of their reports they came up with (6) economic development centers around the country. The B.I.A. promised one to the Aberdeen area or now called the Great Plains Region and said it would be built in Rapid City, South Dakota. Mike Jandreau, chairman of the Lower Brule Sioux Tribe, Harold Salway, President of the Oglala Sioux tribe, our area director, and myself met with the Assistant Secretary about the economic development

center. The Assistant Secretary told our group that he would support the effort in the next year's budget. This never happened and the Sioux tribes are in support of such a program because we have always been on the short end of the stick. The economic development center would be a godsend from Congress because we work very hard out here and everyone seems to ignore our efforts to gain projects for the Lakota, Nakota, and Dakota people. We support the legislation for a Native American Economic Development Council for the growth and development of the Sioux Nation. Technical assistance is needed to provide the tribes with knowledge to overcome many of the barriers for financial development in a business package. It takes a lot of work and research to study the demographics for all the reservation communities. Land and road maps are necessary to provide locations for potential businesses to view before making decisions on where to locate. Qualified staff with the needed expertise to bring together the information and resources for the tribes present suitable business packages to financiers. Grant writers are a necessary function for the Economic Development Council, such as mini-grants to include with other financial resources from the private sector that are available to complete the whole business package. The Sioux Nation is always held back by the Bureau of Indian Affairs. We were not included in the business development grants available to tribes in other B.I.A. areas. The Small Business Administration was not able to connect with the Sioux tribes, as they never took the step to meet with the tribal councils. SBA grants should have been by state and not to a region. Program grants awarded to other states did not encourage the Sioux tribes to be involved in the Small Business Administration Program. A lot of work must be done with the financial institutions because the Bureau of Indian Affairs Economic Development Division had poor relations with commercial lending institutions by not following through on guaranteed loan agreements. The Bureau of Indian Affairs refused to pay off their obligations to some South Dakota banks involved with guaranteed agricultural loans. There used to be over 325 Indian livestock operators on one reservation. Since the Department of Agriculture's Agri-Programs foreclosed on these Indian livestock operators, there are now only 25 left. Many of our Indian livestock operators will refuse to accept any programs from the Department of Agriculture because they seem to pester the Indian livestock operator. Since the Bureau of Indian Affairs does not have an agricultural program for the Indian livestock operators, they are forced to seek other means to make a living.

I would like to take this opportunity to thank the U.S. Senate Committee on Indian Affairs for inviting me to speak before you on Senate Bill 1658 and I hope it passes with flying colors.

**Testimony of Mark C. Van Norman, Director  
Office of Tribal Justice, U.S. Department of Justice  
Before the Senate Committee on Indian Affairs  
Concerning S. 1658; May 17, 2000**

Good Afternoon, Mr. Chairman and Members of the Committee. My name is Mark C. Van Norman and I am the Director of the Office of Tribal Justice, Department of Justice. Thank you for inviting us to testify on S. 1658, a Bill to authorize the construction of a Reconciliation Place in Fort Pierre, South Dakota, and for other purposes.

At the outset, I should emphasize the importance of the government-to-government relations. Congress has a longstanding policy of promoting Indian Self-Determination and in recognition of Indian sovereignty, promotes government-to-government relations with Indian tribes. The Executive Branch also respects the sovereignty of Indian tribes and works with the tribes on a government-to-government basis. In 1998, the President issued Executive Order 13084, on Consultation and Coordination with Indian Tribal Governments, which explains fundamental principles of Federal-tribal relations:

The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. In treaties, our Nation has guaranteed the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, trust resources, and Indian tribal treaty and other rights.

63 Fed. Reg. 27655 (1998).

In our Department of Justice Policy on Indian Sovereignty and Government-to-Government Relations with Indian Tribes, we have pledged to work with Indian tribes on a government-to-government basis, guided by respect for tribal sovereignty, and to assist Indian tribes as they work to develop strong law enforcement, tribal courts, and traditional justice systems. 61 Fed. Reg. 29424 (1996). The Office of Tribal Justice was established in 1995 to provide a permanent channel of communication for tribal governments to express their concerns to the Department of Justice; to coordinate departmental policy on Indian affairs both within the Department and with other federal agencies; and to ensure that the Department works with tribes on a basis of government-to-government relations.

S. 1658 would authorize the construction of a Reconciliation Place in Pierre, South Dakota, promote the formation of the Sioux Nation Supreme Court to serve as an appellate court

for the tribes of the Sioux Nation, and establish an economic development council.

The Administration believes that steps have been taken to render the construction of a Reconciliation Place and the establishment of an economic development council unnecessary. The Administration has requested in the FY 2001 budget funds for the planning and design of the Lakota Sioux Heritage Cultural Center at Badlands National Park. Planning for the Center's construction is well underway and road construction is ongoing in this Fiscal Year. The Center will promote the public's understanding of the history of the Sioux Nation and act as a repository for cultural and historical items.

Similarly, the Administration has established Native American EDGE. Native EDGE is HUD's Native American Economic Development Access Center which will, for the first time, link over twelve Federal agencies through a single toll-free number and web-site so that lending institutions, non-profits, foundations, Native American business owners, and private businesses can collaborate to achieve sustainable economic development in Indian country. The Access Center will provide personalized research, initiate dialogue among entrepreneurs, coordinate with other Federal agencies, and share knowledge and experience to ensure the expansion of economic development in Indian country.

Pursuant to our mission, the Office of Tribal Justice consulted with tribal representatives who have told us that they view efforts to promote the unity of the Sioux Nation as an important objective and support the concept of the Sioux Nation Supreme Court. The Department of Justice joins the Sioux tribes and the State of South Dakota in supporting a strong tribal court system as envisioned by section 102 of S. 1658.

Before turning to a discussion of the history and circumstances of the Sioux Nation, I would like to touch briefly on some of our general work in the areas of tribal law enforcement, tribal justice and reconciliation between the United States and Native Americans.

The Department of Justice has been working on both civil rights concerns and tribal justice concerns among Native Americans generally, and the tribes of the Sioux Nation in particular. The Department of Justice, for example, participated in the hearing that the South Dakota Advisory Committee to the U.S. Civil Rights Commission held in Rapid City, South Dakota in December, 1999 to address the concerns of Native Americans. In keeping with the S. 1658 policy that promotes the formation of a Sioux Nation Supreme Court, the State Advisory Committee made a number of recommendations to assist tribal courts in administering justice. Among other things, the Committee recommended,

The Department of Justice and Interior should expand their efforts to provide funding, training, and technical assistance to tribal courts and tribal law enforcement. Tribal governments should make every effort to insulate their professional law enforcement entities and courts from the pressures of political influence and patronage.



Three years before this recommendation, the Department of Justice -- together with the Department of the Interior -- undertook the Indian Country Law Enforcement Improvement Initiative. The State Advisory Committee's recommendation reinforces the importance of our FY 2001 budget request. The Department of Justice requested \$173 million to improve tribal law enforcement and justice systems, including \$45 million for tribal police, \$34 million for tribal detention, \$20 million for tribal juvenile justice, and a \$15 million request to enhance tribal courts, among other things. This request is essential because effective tribal law enforcement is a necessary adjunct to effective Federal law enforcement in areas of Indian country, like South Dakota, that rely on the Justice Department to prosecute general felony crimes by or against Indians. Furthermore, tribal courts are necessary partners with the tribal police maintaining public safety on Indian reservations.

The Department of Justice promotes the formation of intertribal courts, consistent with tribal self-determination. The Sioux tribes have a vital need for assistance in the area of tribal law enforcement and tribal courts, and the Department of Justice, in cooperation with the Bureau of Indian Affairs, has been working actively with the tribes of the Sioux Nation under the Indian Law Enforcement Improvement Initiative.

The Civil Rights Division also actively protects the civil rights of American Indians and Alaska Natives through its enforcement of various civil rights statutes, including the criminal statutes that allow for federal prosecution of hate crimes and police misconduct, the Voting Rights Act, the Fair Housing Act, and the Equal Opportunity Credit Act. For example, the Civil Rights Division has brought lending discrimination cases against banks which charge Indians higher interest rates than other customers. In May 1997, the United States and a Nebraska bank that serves the Oglala Sioux community entered a consent decree, which provides that the bank will pay \$175,000 for victim compensation, pay \$100,000 towards application fees on new loans to Indians, actively recruit Indian employees, and provide an education program for Indian borrowers. Positive working relationships with tribal governments play an important part in the success of the Division's work to protect the civil rights of Native Americans.

#### **The History of the Sioux Nation & the Need for Reconciliation**

Historically, the United States adopted a policy to protect Indian tribes, Indian lands, and Indian rights. In the Northwest Ordinance of 1787, the Continental Congress declared:

The utmost good faith shall always be observed to the Indians, their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorised by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them. . . .

Consistent with this policy, President Jefferson commissioned the Lewis and Clark Expedition in

1803 to explore the Louisiana Purchase.

As the expedition made its way up the Missouri River through South Dakota, Lewis and Clark stopped and visited the Yankton Sioux Tribe. Among the Yankton Sioux, a young baby was wrapped in an American flag by the expedition members. That baby later grew up to be the famous Yankton Chief, Struck by the Ree, and he led his people on a course of friendship with the United States. See Struck by the Ree, Yankton Daily Press & Dakotan (Sept. 12, 1994); [http://www.yankton.net/stories/091599/bus\\_struck.html](http://www.yankton.net/stories/091599/bus_struck.html). In 1858, Chief Struck by the Ree signed the Treaty of 1858 with the United States on behalf of his tribe, preserving the peace and securing the Yankton Sioux homeland. See Treaty with the Yankton Sioux, 1858; 11 Stat. 748. This event is just one example of the profound effect that the Lewis and Clark expedition had on the Sioux Nation. The Lewis and Clark expedition met the Sioux people at other places along the Missouri River, notably near the present day site of Fort Pierre along the Bad River. Yankton Area Chamber of Commerce, Lewis & Clark Historic Trail: the South Dakota Trail <http://www.lewisclark.net/sdtrail/index.html>. Thus, the Bad River, or Wakpa Sica in the Lakota language, is a very appropriate site for a Reconciliation Center.

In 1815, the United States entered into treaties with the Dakota and Lakota tribes of the Sioux Nation, which pledged federal protection for the tribes. See e.g., Treaty with the Teton (Lakota), 1815, 7 Stat. 125. In 1825, the United States entered into treaties of peace, friendship and commerce with the tribes of the Sioux Nation to promote the fur trade and the safe passage of American citizens through Sioux Nation territory. See e.g., Treaty with the Hunkpapa Band of the Sioux Tribe, 1825, 7 Stat. 257. In 1851, to facilitate trade and reduce intertribal conflict that sometimes threatened safe passage, the United States entered into treaty with the Sioux and neighboring Indian tribes, which described their respective aboriginal areas. Treaty with the Sioux, 1851, 11 Stat. 749.

After the Civil War, the United States' expansion westward brought conflict with the Sioux Nation, who saw their buffalo herds begin to decline with the passage of settlers along the Oregon Trail. In 1866, the United States sought to build a road through Sioux Nation hunting grounds in the Powder River valley, and the Sioux tribes objected. For the next two years, the Sioux tribes fought the Powder River or Red Cloud's War to protect their hunting grounds and ultimately, the United States determined that the best course would be to enter into a treaty that established a permanent reservation for the Sioux Nation and delineated their hunting grounds. In the Treaty with the Sioux Nation, 1868, the United States set aside South Dakota west of the Missouri River as the Great Sioux Reservation as a "permanent home" for the Sioux Nation and delineated tribal hunting lands in the Powder River valley. Treaty with the Sioux, 1868; 15 Stat. 635.

Yet, in 1874, gold was discovered in the Black Hills of South Dakota, and a gold rush began. After attempting to maintain existing reservation boundaries, the Grant Administration sought to purchase the Black Hills, but the Sioux Nation declined. In 1876, the United States ordered the Sioux to report to Indian agencies along the Missouri River and in Nebraska, away

from the Black Hills. When Sitting Bull, Crazy Horse, and several bands of Sioux refused to comply, the United States sent out the army to force the issue. This led to the Battles of the Rosebud and the Little Big Horn. After Custer's defeat at the Little Big Horn, the United States sent out more troops to force the Sioux to report to the Indian agencies, resulting in the Battle of Slim Butte and many other battles where a number of Sioux were killed. United States v. Sioux Nation, 448 U.S. 371, 379-80 (1980). In 1877, Congress passed an Act taking the Black Hills from the Sioux Nation. Act of Feb. 28, 1877, 19 Stat. 254.

In the 1880s, the United States sought more land from the Sioux. In the 1889 Agreement with the Sioux, the United States divided the Great Sioux Reservation into the Cheyenne River, Crow Creek, Lower Brule, Pine Ridge, Rosebud, and Standing Rock Sioux Reservations. The United States acquired several million acres of surplus lands. Shortly after this Act, the Ghost Dance religion became popular on several of the reservations. Some non-Indians were alarmed because the Ghost Dance was practiced in substantial encampments, the U.S. Army was called in, and in December, 1890, more than 300 Sioux Indians, mostly unarmed elderly, women and children, were massacred at Wounded Knee. Sioux Tribe of Indians v. United States, 7 Cl. Ct. 468, 476 (Cl. Ct. 1985). The United States has expressed its sincere regret for the Wounded Knee Massacre.

Many of the Native American people of South Dakota continue to feel the loss brought about by these events. Against this background, it is appropriate for Congress to establish a Reconciliation Place to reflect the history of the Lewis and Clark Expedition and to promote knowledge of and understanding of the history and culture of the Sioux Nation. This effort would help foster a healing spirit of reconciliation among the Sioux Nation and other citizens of South Dakota and would promote a better understanding of Native American history and culture among the Nation as a whole.

Furthermore, the Committee might consider reconciliation among Native Americans in a larger sense. There is a need for Native American mediators trained in conflict resolution techniques throughout Indian country to address conflicts that sometimes arise between Indian tribes and neighboring communities and within tribal communities themselves. Presently, the Department of Justice Community Relations Service (CRS) provides mediation services to tribal governments throughout the Nation. There are many situations where CRS cannot respond due to jurisdictional restrictions or resource allocation issues. The Committee might consider whether these needs might be addressed by the establishment of a mediation training center at the proposed Wakpa Sica Reconciliation Place. Such a mediation center would enable tribal leaders and officials to acquire mediation skills useful in mediating conflicts that arise in Indian communities and surrounding communities. CRS could assist by providing technical assistance to such a mediation training center.

### **The Sioux Nation Supreme Court**

As I noted earlier, the Department supports the development of intertribal courts. There are a number of such efforts in place among tribes in the United States, including intertribal courts of appeals like the Northwest Inter-tribal Court of Appeals. These intertribal courts can produce a number of benefits. They promote inter-tribal unity. The resource sharing they represent can produce efficiencies. In instances where multiple tribes share a common political, historical, and cultural experience, they can represent a step towards that tradition of political unity. They can provide a means for marshaling legal expertise – including expertise in tribal customary legal structures – to provide high quality adjudication of disputes.

The Department of Justice supports the efforts of the constituent tribes of the Great Sioux Nation to form the Sioux Nation Tribal Court. These tribes share a history and tradition of unified political structure and action. Many of their respective constitutions and by-laws retain a recognition of that historical structure by authorizing their tribal councils to select delegates to serve on a Sioux Nation Council. Moreover, as federally-recognized Indian tribes, each constituent tribe of the Great Sioux Nation "possess[es] the inherent authority to establish [its] own form of government, including tribal justice systems." 25 U.S.C. § 3601(4). This authority has been termed "the first element of sovereignty." Felix M. Cohen's *HANDBOOK OF FEDERAL INDIAN LAW* (1982 ed.) at 247. Their respective decisions to participate in the Sioux Nation Tribal Court is an exercise of that authority. The Department supports that exercise, consistent with the Department's Policy on Indian Tribal Sovereignty and Government-to-Government Relations with Indian Tribes, which declares the Department's commitment "to strengthening and assisting tribal governments in their development and to promoting Indian self-governance."

Section 102(a) of S. 1658 would direct the Department of Justice to provide technical and financial assistance to the Sioux Nation towards the development and operation of the Sioux Nation Tribal Supreme Court and this provision falls within the Department's commitment to assist Indian tribes as they develop strong tribal courts. The language of section 102(a) requires technical amendment, however. The current language of section 102(a) directs the Department to "provide such technical and financial assistance to the Sioux Nation as is necessary." This language should be amended to provide that: "To promote the development and operation of the Sioux Nation Tribal Supreme Court, the Attorney General may provide appropriate technical and financial assistance to the Sioux Nation from available funds."

### **Conclusion**

In conclusion, the Administration supports the vision of strong tribal courts as embodied in S. 1658. Again, thank you for the opportunity to testify before the Committee today.

**STATEMENT OF TERRY VIRDEN**  
**DIRECTOR, OFFICE OF TRUST RESPONSIBILITIES**  
**BEFORE THE**  
**SENATE COMMITTEE ON INDIAN AFFAIRS**  
**HEARING ON**  
**S. 1148, THE YANKTON SIOUX TRIBE**  
**AND SANTEE SIOUX TRIBE OF NEBRASKA**  
**DEVELOPMENT TRUST FUND ACT**

May 17, 2000

Good afternoon, Mr. Chairman and Members of the Committee. I am pleased to be here today to present the Administration's views on S. 1148. I want to thank Senator Daschle for introducing this important bill that addresses impacts to the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska resulting from the Pick-Sloan Missouri River Basin program and in particular the development of the Fort Randall and Gavins Point projects. If enacted, this bill would give the Tribes much deserved benefits to compensate for those impacts. While the Administration supports compensating the Tribes, we are concerned that the compensation figures on a per acre basis are significantly higher than those awarded previously to other Tribes that were compensated for losses resulting from the Pick-Sloan program. We look forward to working with the Committee to discuss these values and the rationale behind the amounts awarded under S. 1148.

S. 1148 is a continuation of the United States' honorable efforts to correct inequities resulting from a regional Federal project which severely affected Indian tribal homelands along the Missouri River. In the early 1990's the United States forthrightly addressed impacts to the Standing Rock Sioux Tribe and the Three Affiliated Tribes of the Fort Berthold Reservation. In 1996 and 1997, respectively, it addressed the impacts to the Crow Creek Sioux Tribe and the Lower Brule Sioux Tribe. S. 1148 addresses and mitigates the impacts of the Missouri River Basin Pick-Sloan Project on the remaining two Tribes.

The history of the Project is relatively well known. In 1944, the United States undertook the challenge to reduce flooding in the lower Missouri River Basin through the construction of monumental dams capable of harnessing the seasonal raging flows of the Missouri River. In addition, these dams could generate electrical power and needed hundreds of thousands of acres of land to serve as reservoirs for the storage of water over time to release as necessary. So great was the water resource that a whole regional economy grew from the electric power generated by these dams.

The pre-project tribal economy, however, was based on working the rich wooded bottom lands along the Missouri River. These lands were flooded for the reservoir, and the Tribes have never seen the former economy again. In addition, the importance of cultural treasures lost to inundation is now well-known.

In the 1950's the Yankton Sioux Tribe and its affected tribal members received a total of \$227,510 from the government for damages associated with the Fort Randall Project. Of this amount \$121,210 was awarded them by the U.S. District Court for direct damages as the result of condemnation proceedings filed before the federal district court by the Army Corp of Engineers. Congress authorized the appropriation of an additional \$106,500 in 1954 to be available for relocating the Yankton Sioux tribal members who resided on tribal and allotted lands. Unfortunately the Yankton Sioux Tribe did not receive any additional funding for a rehabilitation program. This bill proposes to provide them with \$34.3 million in additional compensation for the loss value of 2,851.40 acres of land taken for the Fort Randall Dam and Reservoir, and for the use value of 408.40 acres of Indian land on the reservation that the Tribe lost as a result of stream bank erosion that has occurred since 1953.

Information concerning the amount paid to the Santee Sioux condemnation settlement is sketchy because the court docket records are missing from the records of the U.S. District Court in the National Archives. It appears that the tribe may have been paid \$52,000 on the basis of the Tribe's 1955 agreement with the Army Corps of Engineers. We do not know when the settlement money may have been distributed to the individual landholders. Like Yankton, the Santee Sioux did not receive any rehabilitation program funds either. This bill proposes to provide them with \$8.1 million in additional compensation for the loss value of 593.10 acres of land located near the Santee village, and for 414.12 acres on Niobrara Island of the Santee Sioux Tribe Indian Reservation used for the Gavins Point Dam and Reservoir.

The Administration could support S. 1148 with amendments. First, the funding mechanisms in section 4(b) for the Yankton Sioux Tribe Development Trust Fund and in section 5(b) for the Santee Sioux Tribe of Nebraska Development Trust Fund would be subject to pay-as-you-go requirements of the Omnibus Budget and Reconciliation Act of 1990, as amended. The Administration is concerned that any amounts required to establish the Funds would need to be offset. As noted in our statement on the Cheyenne River Sioux Tribe Equitable Compensation Act during the 105<sup>th</sup> Congress, this type of financing mechanism appears to be without cost when in reality it is not free. A more straightforward approach would be to rely on the authorization/discretionary appropriations process to establish the Funds. We are willing to work with the Committee on developing a viable solution.

Second, we recommend that Section 6 be amended to add a subsection (d) which would prohibit per capita payments to tribal members. A similar prohibition was included in the earlier Pick-Sloan project compensation Acts. The suggested amendment is as follows:

Section 6(d) PROHIBITION ON PER CAPITA PAYMENTS. -- No portion of any payment

made under this Act may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

Our final recommendation is to include a new section which would address any further claims of the Tribe against the United States. We submit the following:

Sec. 10. EXTINGUISHMENT OF CLAIMS

Upon the deposit of funds under sections 4(b) and 5(b), all monetary claims that the Tribe has or may have against the United States for loss of value or use of land related to lands described in Section 2(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

This concludes my testimony in on S. 1148. I will be happy to answer any questions you may have.

Testimony Before The United States Senate  
Committee On Indian Affairs

**Gov. William J. Janklow, South Dakota**

**May 17, 2000**

As the Governor for the State of South Dakota, I appreciate and thank you for this opportunity today to express my support for the compensation bill and the reconciliation bill.

The people of South Dakota and I also appreciate the work of this committee on these two pieces of legislation for the people of South Dakota. I offer support for the two measures before this committee today.

My comments will be brief.

Last year, I wrote a formal letter to Sen. Daschle expressing my support for S. 1148, which seeks an equitable settlement for uncompensated damages suffered by the Yankton Sioux and Santee Sioux tribes when lands were taken for the Pick-Sloan dams and reservoirs on the Missouri River.

In that letter, I wrote,

"Many, many people -- whether inside or outside of reservation boundaries along the river -- suffered serious losses of property and livelihood as a result of the dam projects. Taken from us were 600,000 acres of some of the best river land in South Dakota. In return we were promised developmental benefits. That was two and three generations ago. We are still waiting. Your legislation for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska is one more step in helping balance some of those tremendous losses suffered by so many."

Likewise, I strongly believe in the goals of S. 1658, which is known informally as Wakpa Sica legislation or as others call it, the reconciliation bill. Among its features is the establishment of a Sioux Nation Supreme Court.

I speak from my own experiences as a Legal Aid lawyer who served more than six years on the Rosebud Indian Reservation, as the Attorney General for the State of South Dakota four years, and as the Governor of South Dakota, now in my fourth four-year term.

I sincerely hope that this committee and the Congress understands that you could do no greater good than to help establish an independent and consistent



judiciary within tribal government. I know from experience that outside, non-Indian investors and businesses lack confidence in the tribal legal system, and that is the biggest barrier to economic development on our reservations.

So many of our differences in society are not racial as much as they are economic. That is the beauty in what Sen. Daschle is attempting to do in S. 1658. He is addressing the protection of individuals' rights, whether they are the victims or the accused in a criminal matter, or whether they are the plaintiffs or the defendants in a civil matter. He also is addressing the economic difficulties on our reservations. When people feel they will be treated fairly, they approach decisions differently. In doing these things, Sen. Daschle also is helping bring people together. This legislation can provide justice on the reservation and also help bring new jobs to the reservation.

Let me close with a final point. State government is constantly dealing with the nine tribal governments who have land within the boundaries of South Dakota. In some cases, we have very good relationships. In other cases, the relationships can be adversarial at times. As times change, and leaders change, sometimes the relationships change. I hope my testimony today is a clear signal that as long as I am Governor, I will continue to seek to strengthen the relationships between the tribal governments and the state government in South Dakota. We can spend our energy and our capital in working together, or we can burn it up fighting. My testimony is presented in the interest of working together.

